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**Convention on the Conservation and Management of High Seas Fishery
Resources in the South Pacific Ocean.**

The Contracting Parties,

Committed to ensuring the long-term conservation and sustainable use of fishery resources in the South Pacific Ocean while safeguarding the marine ecosystems in which the resources occur;

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, 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 of 4 December 1995 and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and taking into account the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organisation of the United Nations on 31 October 1995;

Recognising that under the above Agreements States have a duty to co-operate with each other in the conservation and management of living resources in the areas of the high seas and, as appropriate, to co-operate to establish sub-regional or regional fisheries organisations or arrangements with a view to taking the measures necessary for the conservation of such resources;

Taking into consideration that, in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and general principles of customary international law, coastal States have waters under national jurisdiction within which they exercise their sovereign rights for the purpose of exploring, exploiting, conserving and managing fishery resources and conserving living marine resources upon which fishing has an impact;

Recognising economic and geographical considerations and the special requirements of developing States, in particular the least-developed among them, and small island developing States, and territories and possessions, and their coastal communities, in relation to the conservation, management and sustainable development of fishery resources and equitable benefit from those resources;

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,

Noting the need for regional fisheries management organisations and arrangements to undertake performance reviews in order to assess the degree to which they are attaining their respective conservation and management objectives;

Determined to cooperate effectively to eliminate illegal, unreported and unregulated fishing and the adverse impact that it has on the state of the world fishery resources and the ecosystems in which they occur;

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

Mindful that effective conservation and management measures must be based on the best scientific advice available and the application of the precautionary approach and an ecosystem approach to fisheries management;

Convinced that the long-term conservation and sustainable use of fishery resources in the South Pacific Ocean and the safeguarding of the marine ecosystems in which those resources occur may best be achieved by the conclusion of an international Convention for that purpose;

Have agreed as follows:

Article 1 DEFINITIONS

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) '1995 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 of 4 December 1995;
- (c) 'Area' means the area to which this Convention applies in accordance with article 4;
- (d) 'Code of Conduct' means the Code of Conduct for Responsible Fisheries adopted by the 28th session of the Conference of the Food and Agriculture Organisation of the United Nations (FAO) on 31 October 1995;
- (e) 'Contracting Party' means any State or regional economic integration organisation which has consented to be bound by this Convention, and for which the Convention is in force;
- (f) 'ecosystem approach to fisheries management' means an integrated approach under which decisions in relation to the management of fisheries resources are considered in the context of the functioning of the wider marine ecosystems in which they occur with the aim of ensuring long-term conservation and sustainable use of those resources and in so doing safeguard those ecosystems;

- (g) 'fishery resources' means fish, molluscs, crustaceans and other sedentary species within the Area, but excluding:
- (i) sedentary species subject to the fishery jurisdiction of coastal States pursuant to article 77(4) of the 1982 Convention; and
 - (ii) highly migratory species listed in Annex 1 of the 1982 Convention;
 - (iii) anadromous and catadromous species;
- (i) 'fishing' means:
- (i) the actual or attempted searching for, catching, taking or harvesting of fishery resources;
 - (ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fishery resources for any purpose;
 - (iii) any operation at sea in support of, or in preparation for, any activity described in this definition, including transshipment;
 - (iv) the use of any other vessel, vehicle, aircraft or hovercraft, in relation to any activity described in this definition except for emergencies involving the health or safety of crew members or the safety of a vessel;
- (j) ~~'fishing vessel' means any vessel used or intended for fishing, including support ships, carrier vessels and any other vessel directly engaged in fishing operations;~~
"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;
- (j) 'flag State' means, unless otherwise indicated:
- (i) a State which entitles vessels to fly its flag; or
 - (ii) a regional economic integration organisation in which a member state entitles vessels to fly the flag of that member State;
- (k) 'IUU fishing' means activities as referred to in paragraph 3 of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing, and other activities as may be decided by the Commission;
- (l) 'living marine resources' means all living components of the marine ecosystems, including seabirds;
- (m) 'market State' means a State or regional economic integration organisation which imports, exports, re-exports or has a domestic market for fish or fish products derived from fishing in the Area;
- (n) 'nationals' includes both natural and legal persons;
- (o) 'port State' means any State receiving fishing vessels in their ports including port offshore terminals and other installations for, *inter alia*, landing, transshipping, refuelling or re-supplying;

- (p) 'precautionary approach' means the precautionary approach as described in the 1995 Agreement, including Annex II, and the Code of Conduct;
- (q) 'regional economic integration organisation' means a regional economic integration organisation 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;
- (r) 'serious violation' has the same meaning as that set out in article 21(11) of the 1995 Agreement;
- (s) 'transshipment' means the unloading of all or any of the fish or fish products derived from fishing in the Area on board a fishing vessel to another fishing vessel either at sea or in port;
- (t) 'new fisheries' means target fisheries of such object which has never been fished in any part of Convention area previously.

Article 2 OBJECTIVE

The objective of this Convention is, through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long-term conservation and sustainable use of fishery resources and in so doing, safeguard the marine ecosystems in which those resources occur.

Article 3 CONSERVATION AND MANAGEMENT PRINCIPLES

1. In giving effect to the objective of this Convention and carrying out decision making under the Convention, the Contracting Parties shall apply in particular the following principles:
 - (a) conservation and management of fishery resources shall be conducted in a transparent, accountable and inclusive manner, and in accordance with international best practice;
 - (b) fishing shall be commensurate with the sustainable and efficient use of fishery resources taking into account the impacts on associated and dependent species and the general duty to protect and preserve the marine environment;
 - (c) overfishing and excess fishing capacity shall be prevented or eliminated;
 - (d) full and accurate data on fishing and impacts on the marine ecosystems shall be collected, verified, reported and shared in a timely and appropriate manner;
 - (e) decisions shall be based on the best scientific information available;
 - (f) the precautionary approach;

- (g) an ecosystem approach to fisheries management;
- (h) conservation and management measures established for the Area shall take into account the conservation and management measures adopted and applied in respect of the same fishery resources by coastal States within areas under national jurisdiction and ensure that the measures established for the Area do not undermine the effectiveness of the coastal State measures;
- (i) biodiversity in the marine environment shall be protected, in particular marine ecosystems which have long recovery times;
- (j) ~~the interests of developing States, including small island developing States, and of territories and possessions, and the needs of developing State coastal communities, shall be taken into account, in accordance with the 1995 Agreement;~~ **the interests of developing States shall be taken into account, consistent with the 1995 Agreement;**
- (k) effective compliance with conservation and management measures shall be ensured and sanctions for any violations shall be adequate in severity to discourage violations wherever they occur and in particular shall deprive offenders of the benefits from their violations;
- (l) pollution and waste originating from fishing vessels, discards, catch by lost or abandoned gear and impacts on other species and marine ecosystems shall be minimised.

Article 4 AREA OF APPLICATION

1. This Convention applies to the Area ...

[see paragraph 4 of *Report of the First International Meeting on the Establishment of the proposed SPRFMO, February 14-17, 2006*, which records that

“the meeting discussed an indicative outline of high seas area for the proposed RFMO (refer Annex II of SP/01/Inf3rev1) as follows:

- (a) the western boundary of the proposed South Pacific regional fisheries management organisation should abut the eastern boundary of the proposed Agreement area to be established under the Southern Indian Ocean Fisheries Agreement;
- (b) the southern boundary of the proposed South Pacific regional fisheries management organisation should abut the northern boundary of the Agreement area of the Commission for the Conservation of the Antarctic Living Marine Resources (CCAMLR);
- (c) the eastern boundary of the proposed South Pacific regional fisheries management organisation should abut the outer limit of the maritime jurisdictions of South American states;

- (d) the northern boundary of the proposed South Pacific regional fisheries management organisation should not be delineated until the meeting had discussed fishery resources to be managed, the regulation of high seas enclaves within the proposed area and had received further scientific and technical information”

2. Where for the purpose of this Convention it is necessary to determine the position on the surface of the earth of a point, line or area, that position shall be determined by reference to the International Terrestrial Reference System maintained by the International Earth Rotation Service, which for most practical purposes is equivalent to the World Geodetic System 1984 (WGS84).

3. Nothing in this Convention shall constitute recognition of the claims or positions of any of the Contracting Parties to this Convention concerning the legal status and extent of waters and zones claimed by any such Contracting Parties.

Article 5 THE ORGANISATION

1. The Contracting Parties hereby agree to establish, maintain and strengthen the South Pacific Regional Fisheries Management Organisation “the Organisation”, which shall carry out its functions as set forth in this Convention in order to achieve the objective of this Convention.

2. The Organisation shall consist of:

- (a) a Commission;
- (b) a Scientific Committee, a Compliance Committee, ~~an Eastern Sub-regional Management Committee, a Western Sub-regional Management Committee,~~ and any other subsidiary bodies and sub-committees that the Commission may establish from time to time to assist it in its work; ~~and~~
- (c) a Secretariat.

3. All subsidiary bodies including the Scientific Committee, the Compliance Committee and other as may be established by the Commission shall meet once or twice a year at the same place and time.

3. The Organisation shall have legal personality in accordance with international law and shall enjoy in its relations with other international organisations and in the territories of the contracting Parties such legal capacity as may be necessary to perform its functions and achieve the objective of this Convention. The immunities and privileges which the Organisation and its officers shall enjoy in the territory of a Contracting Party shall be subject to an agreement between the Organisation and the Contracting Party including, in particular, an agreement between the Organisation and the Contracting Party hosting the Secretariat.

4. The Secretariat of the Organisation shall be at.....or at such other place as may be decided by the Commission.

Article 6 THE COMMISSION

1. Each Contracting Party shall be a member of the Commission and shall appoint one representative to the Commission who may be accompanied by alternative representatives, experts and advisers.

2. The Commission shall elect a Chairperson and a Vice-Chairperson, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than two terms in succession. The Chairperson and Vice-Chairperson shall be representatives of different Contracting Parties.

3. The first meeting of the Commission shall take place no later than 12 months following the entry into force of the Convention. Thereafter the Chairperson of the Commission shall convene an annual meeting at a time and location to be decided by the Commission.

4. Extraordinary meetings of the Commission may be held at such time and place as the Commission decides, **but not more than once** a year taking full account of the need for cost effectiveness.

5. The Commission **at its annual sessions** shall, by consensus, adopt and amend as necessary its rules of procedure. Such rules may include procedures for taking and recording decisions intersessionally.

Article 7 FUNCTIONS OF THE COMMISSION

1. The Commission shall, in accordance with the objective, principles and specific provisions of this Convention, exercise the following functions:

- (a) adopt conservation and management measures to achieve the objective of this Convention;
- (b) determine the nature and extent of participation in fisheries;
- (c) develop rules for the collection, verification, reporting and dissemination of data;
- (d) promote the conduct of scientific research to improve knowledge of fishery resources and marine ecosystems in the Area, and, in collaboration with the Scientific Committee, establish procedures for the conduct of fishing for scientific purposes;
- (e) co-operate and exchange data with relevant organisations and coastal States and promote compatibility of conservation and management measures in the Area and adjacent areas;

- (f) develop and establish effective monitoring, control, surveillance, compliance and enforcement procedures, including market-related measures and non-discriminatory trade-related measures;
- (g) develop processes in accordance with international law to assess Contracting Party, Flag State and Port State performance with respect to the implementation of their obligations under this Convention and adopt proposals if appropriate to ensure implementation of such obligations;
- (h) adopt proposals for measures to prevent, deter and eliminate IUU fishing;
- (i) review the effectiveness of the provisions of the Convention and the conservation and management measures adopted by the Commission in meeting the objective of this Convention;
- (j) supervise the organisational, administrative, financial and other internal affairs of the Organisation, including the relations among constituent bodies;
- (k) guide the Commission's subsidiary bodies in their work;
- (l) approve the budget of the Organisation;
- (m) exercise any other function and take any other decisions that may be necessary for achieving the objective of this Convention.

Article 8 SUBSIDIARY BODIES

1. The Commission may establish other subsidiary bodies, additional to the Scientific Committee, the Compliance Committee, ~~the Eastern Sub-regional Management Committee and the Western Sub-regional Management Committee~~ as may be required. Such additional subsidiary bodies may be established on a permanent or temporary basis taking into account cost implications.
2. In establishing such additional subsidiary bodies the Commission shall provide specific terms of reference and methods of work as may be required, provided always that such specific terms of reference are fully consistent with the objective and the conservation and management principles of this Convention and with the 1982 Convention and the 1995 Agreement. Such terms of reference and methods of work may be reviewed and amended as appropriate by the Commission from time to time.
3. All subsidiary bodies shall report, advise and make recommendations to the Commission.
4. Each subsidiary body shall meet once a year unless otherwise decided by the Commission, **but not more than twice a year.**
5. In carrying out their functions, all subsidiary bodies shall take into consideration the relevant work of other subsidiary bodies established by the Commission, and as appropriate the work of other fisheries management organisations and the work of other relevant technical and scientific bodies.

6. All subsidiary bodies may establish working groups and seek external advice as required in accordance with any general or specific guidance provided by the Commission.

7. All subsidiary bodies shall operate under the rules of procedure of the Commission unless otherwise decided by the Commission. The rules shall include procedures for the presentation of minority reports.

8. The functions of the Scientific Committee, the Compliance Committee and any additional subsidiary bodies may be reviewed and amended as appropriate by the Commission from time to time.

Article 9

SCIENTIFIC COMMITTEE

1. Each Contracting Party shall be entitled to appoint one representative to the Scientific Committee who may be accompanied by alternate representatives and advisers.

2. The functions of the Scientific Committee shall be to:

- (a) plan, conduct and review such scientific assessments of fishery resources in the Area and the impact of fishing on the marine ecosystems in the Area as may be required by the Commission;
- (b) encourage and promote cooperation in scientific research in order to improve knowledge of the state of fishery resources and the marine ecosystems in the Area;
- (c) provide such other scientific advice to the Commission and its subsidiary bodies as it considers appropriate or as may be required by the Commission.

3. The rules of procedure of the Commission shall provide that where the Scientific Committee is unable to provide its advice by consensus, it shall set out in its report all views of its members.

Article 10

COMPLIANCE COMMITTEE

1. Each Contracting Party shall be entitled to appoint one representative to the Compliance Committee who may be accompanied by alternate representatives and advisers.

2. The functions of the Compliance Committee shall be to:
 - (a) monitor, review and provide advice to the Commission on the implementation of, and compliance with, conservation and management measures adopted under this Convention or under consideration by the Commission;
 - (b) provide such other advice relating to compliance with, and enforcement of, this Convention as may be required by the Commission;
 - (c) coordinate compliance activities undertaken by or on behalf of the Commission.

Article 11

EASTERN AND WESTERN SUB-REGIONAL MANAGEMENT COMMITTEES

~~1.— The functions of the Eastern and Western Sub-regional Management Committees shall be to develop and make recommendations to the Commission on conservation and management measures in accordance with Article 17 of this Convention, including the establishment of a total allowable catch or total allowable fishing effort in accordance with Article 18 of this Convention, and on participation in fisheries in accordance with Article 19 of this Convention, in respect of fishery resources in that part of the Area for which each Sub-regional Management Committee has responsibilities in accordance with paragraph 3 of this article. Such recommendations shall be consistent with the objective and the conservation and management principles of this Convention and with any measures of general application adopted by the Commission. Where appropriate, the Sub-regional Management Committees shall make all efforts to coordinate their recommendations.~~

~~2— In developing its recommendations each Sub-regional Management Committee shall take into account the advice and recommendations of the Scientific Committee. If any of the recommendations of either Sub-regional Management Committee, including recommendations on a total allowable catch or total allowable fishing effort, are inconsistent with the advice and recommendations of the Scientific Committee, the Sub-regional Management Committee concerned shall draw such inconsistency to the attention of the Commission and provide an explanation. On receipt of any such recommendation the Commission shall seek a report from the Scientific Committee before considering it.~~

- ~~3.— (a) The Eastern Sub-regional Management Committee shall be responsible for developing and recommending to the Commission conservation and management measures for that part of the Area that lies east of Meridian 120°;~~
- ~~— (b) The Western Sub-regional Management Committee shall be responsible for developing and recommending to the Commission conservation and management measures for that part of the Area that lies west of Meridian 120°;~~

~~(c) Notwithstanding sub paragraphs (a) and (b) of this article the Commission may, at any time, make adjustments to the area in respect of which the Eastern and Western Sub-regional Management Committees have responsibility for recommending conservation and management measures. Such adjustments may include the allocation to either Committee of primary responsibility for developing and recommending conservation and management measures for specific species throughout the range of those species, as well as adjustments to the geographical areas for which each Committee has responsibility.~~

~~4. The membership of the Eastern and Western Sub-regional Management Committees shall be the Contracting Parties situated adjacent to, or whose vessels are fishing in, that part of the Area for which the Committees respectively have responsibilities. Any Contracting Party not represented on either one of the Sub-regional Management Committees may send a representative to participate in the deliberations of each Committee as an observer.~~

~~5. The Eastern and Western Sub-regional Management Committees shall make all efforts to adopt their recommendations to the Commission by consensus. If all efforts to reach agreement on a recommendation by consensus have been exhausted they shall adopt the recommendation by a two thirds majority which must include at least two members that are situated adjacent to that part of the Area for which the relevant Committee has responsibilities and two other members whose vessels are fishing in that part of the Area.~~

~~6. Any extraordinary costs incurred for the work of either of the Sub-regional Management Committees shall be borne by the members of the relevant Committee.~~

Article 12 SECRETARIAT

1. The Secretariat shall perform the functions delegated to it by the Commission.
2. The chief administrative officer of the Secretariat shall be the Executive Secretary, who shall be appointed by the Commission according to such procedures and on such terms as it may determine.
3. Any employees of the Secretariat shall be appointed by the Executive Secretary **on the basis of equitable representation of coastal and fishing states with a view to greater transparency and** in accordance with such rules and procedures as may be determined by the Commission.
4. The Executive Secretary shall, subject to the general supervision of the Commission, have full power and authority over any employees and employee-related issues of the Secretariat and shall perform such other functions as the Commission may prescribe.

5. The Secretariat to be established under this Commission 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 and more specifically the availability of services under contractual arrangement.

Article 13 BUDGET

1. The Contracting Parties, at their first meeting, shall consider the adoption of a budget to fund the Commission and its subsidiary bodies, and shall also consider the adoption of financial regulations. Decisions on the budget and financial regulations shall be taken by consensus.

2. Each Contracting Party shall contribute to the budget. The contribution by each Contracting Party shall be according to a combination of an equal basic fee and a fee based on its total catch of fishery resources. The Commission shall adopt and may amend the proportion in which these contributions are applied taking into account as appropriate the economic status of each Contracting Party and any territories it may have adjoining the Area. The proportion of contributions shall be set out in the financial regulations of the Commission.

3. The Commission may request and accept financial contributions and other forms of assistance from organisations, individuals and other sources for purposes connected with the fulfilment of its functions.

4. The Executive Secretary shall, for each financial year, submit a draft of the annual budget to each Contracting Party together with a schedule of contributions, not less than 60 days before the annual meeting of the Commission at which the budget is to be considered. In preparing the draft budget the Secretariat shall take full account of the need for cost effectiveness together with the guidance of the Commission as to the meetings of the subsidiary bodies that may be required in the budget year.

5. If the Commission is unable to adopt a 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.

6. Following the annual Commission meeting, the Executive Secretary shall notify each Contracting Party of the contribution due from that Party as calculated under paragraph ~~4~~², and as soon as possible thereafter each Contracting Party shall pay to the Organisation its contribution.

7. Contributions shall be payable in the currency of the country in which the Secretariat of the Organisation is located, except if otherwise authorised by the Commission.

8. A Contracting Party acceding to this Convention during the course of a financial year shall contribute in respect of that year a part of the contribution calculated in accordance with the provisions of this article that is proportional to the number of complete months remaining in the year.

9. Unless otherwise decided by the Commission, a Contracting Party that is in arrears with its payment of any monies owed to the Organisation by more than two years shall not participate in the taking of any decisions by the Commission until it has paid all monies owed by it to the Commission.

10. The financial activities of the Organisation, including the proportion of contributions referred to in paragraph 4, shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by independent auditors appointed by the Commission.

Article 14 DECISION-MAKING

1. ~~As a general rule, Decisions by 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. No decision shall be taken in absence of any member of the Commission.

Alternative option. 1. A decision is taken by a three-fourths majority of the coastal member countries and by a three-fourths majority of member-countries engaged in distant-water fisheries. In case the three-fourths majority of the coastal countries or of the countries engaged in distant-water fisheries is not reached, despite the general three-fourths majority, the decision is not taken.

2. Any Contracting Party may, within 50 days of the date of notification of a decision object thereto. In the event of such an objection, any other Contracting Party may similarly object within 40 days after receiving notification of that objection. If any objection is made within this further period of 40 days other Contracting Parties are allowed a final period of 40 days after receiving notification of that objection in which to lodge objections.

3. A recommendation shall not become binding on a Contracting Party which has objected thereto.

4. If three or more Contracting Parties have objected to a recommendation it shall not become binding on any Contracting Party.

~~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. 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.— When, in relation to cases covered in paragraph 2, it appears to the Chairperson that all efforts to reach a decision by consensus have been exhausted, the Chairperson shall fix a time during the Commission meeting for taking the decision by 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 meeting 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 Chairperson determines that there would be 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.— Where, under article 11 of this Convention, a Sub-regional Management Committee has responsibilities for developing conservation and management measures and recommending them to the Commission, the decisions of the Commission on such measures shall be based on the recommendations of the relevant Sub-regional Management Committee.~~

~~6.— (a) If the Commission does not accept the recommendation of the relevant Sub-regional Management Committee in respect of any measure it shall refer the measure to that Sub-regional Management Committee for further consideration. The Sub-regional Management Committee shall reconsider the matter in the light of the views expressed by the Commission;~~

~~— (b) Notwithstanding paragraph 5 and sub-paragraph (a) of this paragraph, if a Sub-regional Management Committee fails to recommend appropriate conservation and management measures within a reasonable time, specified in advance by the Commission to the Sub-regional Management Committee, the Commission may proceed to adopt appropriate conservation and management measures.~~

~~7.— Subject to paragraphs 8 and 9, a decision of the Commission shall become binding 60 days after the date of its adoption.~~

~~8.— A Contracting Party 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.....to this Convention on the grounds that:~~

- ~~(a) the decision is inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement; or,~~
- ~~(b) the decision unjustifiably discriminates in form or in fact against the Contracting Party concerned.~~

~~9. Pending the findings and recommendations of the review panel and any action decided upon by the Commission, no Contracting Party shall be required to give effect to the decision in question.~~

~~10. If the review panel finds that the decision of the Commission need not be modified, amended or revoked, the decision shall become binding on all Contracting Parties 30 days from the date of communication by the Executive Secretary of the findings and recommendations of the review panel.~~

~~11. If the review panel recommends to the Commission that the decision be modified, amended or revoked, the Commission shall, at its next meeting, modify or amend or revoke the decision, provided that, if so requested by a majority of Contracting Parties, a special Commission meeting shall be convened within 60 days of the communication of the findings and recommendations of the review panel.~~

~~12. Nothing in this article is to be read as preventing the Commission from agreeing on techniques for taking and recording decisions outside the period of an actual Commission meeting.~~

Article 15 TRANSPARENCY

1. The Contracting Parties shall promote transparency in decision-making processes and other activities carried out under this Convention including appointing staff members of the Secretariat and functioning of the Secretariat.

2. All meetings of the Commission and its subsidiary bodies shall be public unless otherwise decided by the Commission. The Commission shall publish its reports and conservation and management measures when adopted and shall maintain a public record of all reports and conservation and management measures in force in the Area.

3. The Commission shall promote transparency in the implementation of this Convention through the public dissemination of non-confidential information and, as appropriate, facilitating consultations with, and the participation of, non-governmental organisations, representatives of the fishing industry, particularly the fishing fleet, and other interested bodies and individuals.

4. Representatives of non-Parties, relevant intergovernmental organisations and non-governmental organisations, including environmental organisations with an interest in matters pertaining (принадлежащих) to the Commission and the fishing industry of any Contracting Party operating in the Area, shall be afforded (быть способным) the opportunity to take part in the meetings of the Commission and of its subsidiary bodies, as observers or otherwise as appropriate. The rules of procedure of the Commission shall provide for such participation and shall not be unduly restrictive in this respect. Such representatives shall have timely access to relevant information, in accordance with the rules of procedure.

Article 16**RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES**

1. The Contracting Parties shall give full recognition to the special requirements of developing States Parties to this Convention, in particular the least developed among them and small island developing States, and of territories and possessions, in relation to the conservation and management of fishery resources in the Area and the sustainable use of such resources.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for fishery resources covered by this Convention, the Contracting Parties shall take into account the special requirements of developing States Parties, in particular small island developing States, and territories and possessions, in particular:

- (a) the vulnerability of developing States and territories and possessions in the region which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or part thereof;
- (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fish workers, as well as indigenous people in developing States Parties, particularly small island developing States Parties, and territories and possessions;
- (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, in the region.

3. The Contracting Parties shall cooperate either directly or through the Commission and other regional or sub-regional organisations involved in the management of fishery resources to:

- (a) enhance the ability of developing States Parties, in particular the least developed among them and small island developing States, and territories and possessions, to conserve and manage fishery resources and to develop their own fisheries for such resources;
- (b) assist developing States Parties, in particular the least developed among them and small island developing States, and territories and possessions, to enable them to participate in fisheries for such resources, including facilitating access to such fisheries subject to the provisions of this Convention;
- (c) facilitate the participation of developing States Parties, and of territories and possessions, in the work of the Commission and its subsidiary bodies.

4. Cooperation with developing States Parties, 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 fishery resources 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.

5. ~~The Commission shall establish a fund to facilitate the effective participation of developing State Parties, particularly small island developing States, and, as appropriate, territories and possessions, in the work of the Commission and its subsidiary bodies.~~

Article 17

CONSERVATION AND MANAGEMENT MEASURES

1. The Commission shall adopt conservation and management measures for fishery resources, associated or dependent species and the impacts of fishing on the marine ecosystem. In adopting such measures the Commission shall apply the precautionary approach and an ecosystem approach to fisheries management, taking full account of advice from the Scientific Committee. The conservation and management measures adopted by the Commission shall include measures to:

- (a) ensure the long-term sustainability of fishery resources and to promote the objective of their responsible utilisation, taking in to account *inter alia*: the biological unity and other biological characteristics of the fishery; uncertainties relating to the size and productivity of the fishery; biological reference points; the condition of the fishery in relation to such biological reference points; levels and distributions of fishing mortality; the impact of fishing on non-target and associated or dependent species; the impact of fishing on the marine ecosystems in which these resources occur; and existing and predicted oceanic and environmental conditions and socio-economic considerations;
- (b) prevent or eliminate over-fishing and excess fishing capacity to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
- (c) maintain or restore populations of non-target and associated and dependent species to above levels at which their reproduction may become seriously threatened;
- (d) determine specific biological reference points above which the sustainability of a fishery is ensured, consistent with article 6 of the 1995 Agreement, and to ensure that when such specific biological reference points are approached, further measures are taken to ensure they are not be exceeded;

- (e) ensure that in the event specific biological reference points are exceeded, Contracting Parties, without delay, take action to restore the fishery (to a level above those reference points) within a reasonable period of time;
- (f) protect the marine ecosystems in which the fishery resources occur, including through: reference points above which the functionality of the marine ecosystem is ensured; spatial or temporal closures of fisheries; the regulation of fishing methods and gear-types used; the minimisation of pollution, waste, discards, catch by lost or abandoned (заброшенный) gear, through measures including the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

and any other measures necessary to give effect to this Convention.

2. The Commission shall adopt measures to be applied on an emergency basis, in accordance with Article 14, ~~including interessionally, if necessary,~~ when reliable scientific information indicates that ~~where~~ fishing presents a serious threat to the sustainability of fishery resources or the marine ecosystem in which these fisheries resources occur or when a natural phenomenon has a significant adverse impact on the status of fishery resources to ensure that fishing does not exacerbate (обостряет) such threat or adverse impact. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 18

ESTABLISHMENT OF TOTAL ALLOWABLE CATCH OR TOTAL ALLOWABLE FISHING EFFORT

1. In addition to the measures adopted under article 17, the Commission shall determine a total allowable catch or total allowable fishing effort, including any catch or effort for scientific research, for all fisheries within three years of the entry into force of this Convention. In determining the total allowable catch or total allowable fishing effort for each fishery, the Commission shall apply the precautionary approach and an ecosystem approach and shall take into account all of the following factors:

- (a) the objective and the conservation and management principles of this Convention;
- (b) the conservation and management measures adopted by the Commission;
- (c) the advice and recommendations of the Scientific Committee and Compliance Committee;
- (d) the status and stage of development of the fishery;
- (e) fishing patterns of the fishery, catch of the same fishery resource within areas under national jurisdiction;
- (f) catch of non-target and associated and dependent species and impacts on the marine ecosystems in which the fishery resources occur;

- (g) regions and sub-regions of the Area identified on the basis of the geographical and biological characteristics of the fishery, including the areas and periods in which fishing may occur;
 - (h) relevant ecological and biological factors limiting the nature of fishery resources that may be harvested;
 - (i) relevant environmental factors which may have an effect upon the fishery and associated or dependent species;
 - (j) relevant conservation and management measures adopted by other intergovernmental organisations **regarding the SP Convention area stocks**.
2. The Commission shall regularly review the total allowable catch or total allowable fishing effort for each fishery.

Article 19 **PARTICIPATION IN FISHERIES**

1. When taking decisions regarding participation of the Contracting Parties in fisheries, including the allocation of the total allowable catch or total allowable fishing effort, the Commission shall take into account the following:
- (a) compliance with the conservation and management measures under this Convention, and with those of other regional fisheries management organisations **regarding the SP Convention area stocks**;
 - (b) demonstrated capacity and willingness to exercise effective flag State control over flag vessels;
 - (c) contribution to the conservation and management of fishery resources in the Area, including the provision of accurate data, the conduct of scientific research and steps taken to establish cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
 - (d) past and present fishing patterns, practices and catches of the Contracting Parties in the Area since the beginning of fishing activities in the Convention area;
 - (e) the interests of developing States and of territories and possessions (владения) in whose areas of national jurisdiction the same fishery resources also occur;
 - (f) the needs of coastal States and of territories and possessions whose economies are overwhelmingly dependent on the exploitation of fishery resources **in the past**;
 - (g) the needs of coastal fishing communities which are dependent mainly on fishing for the fishery resources **in the past**;
 - (h) contribution to the responsible development of new fisheries;

- (i) contribution of the Contracting Parties to the discovery and scientific research fisheries in the Area since the beginning of fishing activities in the Convention area.

2. Decisions by the Commission on participation of the Contracting Parties in fisheries, including the allocation of total allowable catch or total allowable fishing effort, shall be taken by consensus.

3. The Commission shall regularly review decisions regarding participation in fisheries, including the allocation of the total allowable catch or total allowable fishing effort, taking into account the matters listed in paragraph 1 of this article and the interests of new Contracting Parties.

Article 20 DEVELOPMENT OF NEW FISHERIES

1. A new fishery resource which never has been fished for in the Convention area before ~~A fishery resource that is not subject to fishing at the time of the entry into force of this Convention shall be subject to fishing only when the Commission has adopted cautious preliminary conservation and management measures in respect of that fishery resource, and any associated or dependent species, and to protect the marine ecosystem in which that fishery resource occurs from adverse impacts of fishing activities.~~

2. Such preliminary conservation and management measures, which may include requirements regarding notification of intention to fish, the establishment of a development plan, mitigation measures to prevent adverse impacts on marine ecosystems, specification of fishing gear, the presence of observers, the collection of data, and the conduct of research, shall be consistent with the objective and the conservation and management principles of this Convention. The measures shall ensure that the new fishery is developed on a precautionary and gradual basis until sufficient information is acquired to enable the Commission to adopt appropriately detailed conservation and management measures referred to in articles 17 and 18 of this Convention.

3. The Commission may, from time to time, adopt standard minimum conservation and management measures that are to apply in respect of some or all new fisheries prior to their commencement.

Article 21 DATA COLLECTION, COMPILATION AND EXCHANGE

1. To enhance the information base for the conservation and management of fishery resources, associated and dependent species and the safeguarding of the marine ecosystems in which those resources occur; and to contribute to the elimination or reduction of IUU fishing and its negative impact on those resources, the Commission

shall, taking full account of Annex I of the 1995 Agreement, develop standards, rules and procedures for, *inter alia*:

- (a) the collection, verification and timely reporting of all relevant data by Contracting Parties;
- (b) the compilation and management of accurate and complete data to facilitate effective stock assessment and ensure that the provision of the best scientific advice is enabled;
- (c) the security and dissemination of data while maintaining confidentiality where appropriate;
- (d) the exchange of data between Contracting Parties, other regional fisheries management organisations, and other relevant organisations concerning vessels engaged in IUU fishing, including the beneficial ownership of such vessels, with a view to consolidating such information into a centralised format for dissemination as appropriate;
- (e) the facilitation of co-ordinated documentation and data-sharing between regional fisheries management organisations, including procedures to exchange data on vessel registers, catch documentation schemes where applicable, and analysis of trade flows;
- (f) regular audits of Contracting Party compliance with data collection and exchange requirements, and for addressing any non-compliance identified in such audits.

2. The Commission shall ensure that data are publicly available concerning the number of vessels operating in the Area, the status of fishery resources managed under this Convention, fishery resource assessments, research programmes in the Area, and cooperative initiatives with regional organisations.

Article 22 **CONTRACTING PARTY DUTIES**

1. Each Contracting Party shall, in respect of its fishing activities within the Area:
 - (a) promptly implement this Convention and any conservation and management measures adopted by the Commission;
 - (b) co-operate in furthering the objective of this Convention;
 - (c) take all necessary measures in order to ensure the effectiveness of the conservation and management measures adopted by the Commission;
 - (d) take all necessary measures to support efforts to prevent, deter and eliminate IUU fishing;
 - (e) collect, verify and report scientific, technical and statistical data pertaining to the fishery resources and the marine ecosystems in the Area in conformity with the standards, rules and procedures established by the Commission;

2. Each Contracting Party shall report to the Commission on an annual basis indicating how it has implemented the conservation and management measures and compliance and enforcement procedures adopted by the Commission and the outcome of any actions under paragraph 3 of this article, including in respect of its flag fishing vessels, ports, markets, industries and nationals operating on fishing vessels. In the case of coastal States that are Contracting Parties to this Convention, the report shall include information regarding the conservation and management measures they have taken for straddling stocks occurring in waters under their jurisdiction adjacent to the Area. Such reports shall be made publicly available.

3. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall, to the greatest extent possible, immediately investigate any alleged violation by its nationals, or fishing vessels owned, operated or controlled (need to clarify) by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. A reply, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to all Contracting Parties as soon as practicable and in any case within two months of such request. Reports on the progress of the investigation shall be provided to the Commission at appropriate regular intervals, as well as a final report on the outcome when the investigation is completed.

4. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall take action, or cooperate, to ensure that its nationals, fishing vessels owned, operated or controlled (need to clarify) by its nationals fishing in the Area and its industries comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission.

5. Each Contracting Party shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights recognized in this Convention in a manner which would not constitute an abuse of right.

Article 23 FLAG STATE DUTIES

1. Each flag State Contracting Party shall take such measures as may be necessary to ensure that:

- (a) fishing vessels flying its flag operating in the Area comply with the provisions of this Convention and the conservation and management measures adopted by the Commission and that such vessels do not engage in any activity which undermines the effectiveness of such measures;
- (b) fishing vessels flying its flag do not conduct unauthorized fishing within waters under national jurisdiction adjacent to the Area;
- (c) it develops and implements a satellite vessel monitoring system for fishing vessels flying its flag and fishing in the Area in accordance with standards and procedures adopted by the Commission;
- (d) fishing vessels flying its flag:

- (i) and or tranship fishery resources caught in the Area only at ports which have systems for inspecting documents, fishing gear and catch on board fishing vessels, that enable verification that the fish on board have been caught in a manner consistent with the conservation and management measures and relevant procedures adopted by the Commission; or
- (ii) tranship fishery resources caught in the Area at sea only when: there is full observer coverage; all of the transhipped fish or fish products caught in the Area derived from fishery resources will be landed at a Contracting Party port; and the transhipment is done in accordance with relevant procedures adopted by the Commission.
2. No flag State Contracting Party shall allow any fishing vessel entitled to fly its flag to be used for fishing in the Area unless it has been authorised to do so by the appropriate authority or authorities of that flag State Contracting Party.
3. Each flag State Contracting Party shall:
- (a) authorise the use of vessels flying its flag for fishing in the Area only where it is able to exercise effectively its responsibilities in respect of such vessels under this Convention and in accordance with international law;
 - (b) maintain a register of fishing vessels entitled to fly its flag and authorized to fish for fishery resources, and ensure that, for all such vessels, such information as may be specified by the Commission is entered in that register. Contracting Parties shall exchange this information in accordance with such procedures as may be agreed by the Commission;
 - (c) in conformity with conservation and management measures adopted by the Commission, make available to each annual Commission meeting a report on its fishing in the Area;
 - (d) in accordance with measures adopted by the Commission, investigate immediately and report fully on actions taken in response to 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. Reports on the progress of the investigation shall be provided to the Commission at appropriate regular intervals, as well as a final report on the outcome when the investigation is completed;
 - (e) ensure that penalties applicable for such violations are of an appropriate severity, taking into account the value of the catch, to secure compliance, discourage further violations and deprive offenders of the benefits accruing from their illegal activities
 - (f) ensure in particular 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 Area until such time as it has complied with all outstanding sanctions imposed by the flag State Contracting Party in respect of the violation;

(g) to the extent permitted by its national laws and regulations, consider requests ~~establish arrangements for making available to prosecuting authorities of other Contracting Parties evidence in relation~~ed to alleged violations, including information available on the beneficial ownership of vessels flying its flag.

4. Each flag State Contracting Party shall ensure that vessels flying its flag engaged in or intending to engage in research into fishery resources comply with conservation measures ~~any procedures~~ established by the Commission for the conduct of scientific research fishing in the Area. The Commission shall encourage the research of marine ecosystems in the area, therefore Contracting Parties shall be afforded the opportunity to conduct scientific research fishing. The conservation measures of the Commission shall provide for such scientific research fishing and shall not be unduly restrictive in this respect.

Article 24 PORT STATE DUTIES

1. A port State Contracting Party has the right and duty to take measures, in accordance with international law, to promote the effectiveness of sub-regional, regional and global conservation and management measures. When taking such measures, a port State Contracting Party shall not discriminate in form or in fact against the fishing vessels of any State.

2. Each port State Contracting Party shall:

- (a) in accordance with the conservation and management measures adopted by the Commission, *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;
- (b) not permit landings, transshipment, or supply services in relation to fishing vessels that have engaged (заниматься) in fishing in the Area according to the IUU vessel lists adopted by the Commission ~~unless they are satisfied that fish on board the vessel have been caught in a manner consistent with the conservation and management measures adopted by the Commission;~~
- (c) provide assistance to flag State Contracting Parties, as reasonably practical and in accordance with its national law and international law, when a fishing vessel is voluntarily in its ports or at its offshore terminals and the flag State of the vessel requests it to provide assistance in ensuring compliance with the provisions of this Convention and with the conservation and management measures adopted by the Commission.

3. In the event that a port State Contracting Party considers that a vessel of another Contracting Party making use of its ports or offshore terminals has violated a provision of this Convention or a conservation and management measure adopted by the Commission, it shall draw this to the attention of the flag State Contracting Party concerned and as appropriate, the Commission. The port State Contracting Party shall

provide the flag State Contracting Party and the Commission with full documentation on the matter, including any record of inspection.

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

Article 25

MARKET- RELATED MEASURES

RF propose to implement this article to valuable species only

1. The Commission shall establish appropriate non-discriminatory market-related measures to monitor landings, trade and transport flows from the catch to the market, including where necessary:

- (a) catch documentation schemes or other trade-tracking schemes; and
- (b) mechanisms to exchange and verify data in a timely manner.

2. The Commission shall, within two years of entry into force of this Convention, examine the need for catch documentation or other trade-tracking schemes in respect of each fishery. The need for such schemes shall be kept under regular review.

3. In implementing any appropriate market-related measures adopted by the Commission under paragraph 1, market State Contracting Parties shall take measures, in accordance with international law, to improve the transparency of their markets to allow the traceability of fish or fish products derived from fishery resources.

Article 26

MONITORING, COMPLIANCE AND ENFORCEMENT

1. The Commission shall establish appropriate cooperative procedures for effective monitoring, control and surveillance of fishing and to ensure compliance with this Convention and the conservation and management measures adopted by the Commission.

2. The Commission shall adopt procedures for, *inter alia*:

- (a) the establishment and maintenance of a Commission record of vessels authorised to fish in the Area, the marking of vessels and fishing gear, the recording of fishing activities, and the reporting of vessel movements and activities by a satellite vessel monitoring system;
- (b) an inspection program 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 government service and authorized to undertake high seas boarding and inspection in accordance with this Convention and international law. ~~programme, both at sea and in port, including procedures for boarding and inspection of vessels, and~~

~~procedures for notification of inspection vessels and самолеты надо однозначно убирать, это не принято в др. МРО aircraft that may participate in the programme;~~

- (c) transshipment;
- (d) the reporting on infringements (нарушения) detected, progress and outcomes of investigations, and enforcement actions taken; and
- (e) addressing IUU fishing activities in the Area, including by identifying vessels engaging in IUU fishing activities, by adopting appropriate measures to prevent, deter and eliminate IUU fishing such as the development of an IUU vessels list, and by ensuring that owners and operators of vessels engaging in such activities are deprived of any benefits accruing from those activities.

3. The Commission may adopt procedures to be applied to a Contracting Party that is found to be non-compliant with the terms of this Convention or the conservation and management measures adopted by the Commission. Such procedures should include a range of responses that take account of the reason for and degree of non-compliance and should include cooperative capacity-building initiatives and trade-related measures on any species covered by this Convention. Any implementation of trade-related measures by a Contracting Party shall be consistent with that Party's international obligations, including its obligations under the WTO Agreement, and to that end shall not be applied by that Party in a manner that would constitute a means of arbitrary or unjustifiable discrimination between States where the same conditions prevail, or as a disguised restriction on international trade.

4. If, within two years of the entry into force of this Convention, the Commission has not adopted at sea inspection procedures as outlined in paragraph 2(b) above, or an alternative mechanism which effectively discharges the obligations of the members of the Commission under the 1995 Agreement and this Convention to ensure compliance with the conservation and management measures adopted by the Commission, it shall, at the request of any Contracting Party, apply the procedures for boarding and inspection as stipulated in articles 21 and 22 of the 1995 Agreement, in order to strengthen the effective discharge by Contracting Parties of their obligations under this Convention and where applicable, under the 1995 Agreement.

5. The provisions of this Article are without prejudice to the rights of any Contracting Parties 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 1995 Agreement, or the 1982 Convention.

Article 27 OBSERVER PROGRAMME

1. The Commission shall establish an observer programme, within two years of the entry into force of the Convention, to collect verified catch and effort data, other scientific data and additional information related to the fishery resources of the Area, and to monitor the implementation of the provisions of this Convention and the conservation and management measures adopted by the Commission. The observer

programme shall be coordinated by the Secretariat of the Commission, and shall be organised in a flexible (гибкий) 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 observer programme.

2. In developing the observer programme, the Commission shall take into account advice from the Scientific Committee and Compliance Committee and shall ensure that the programme is operated in accordance with standards, rules and procedures developed by the Commission. These standards, rules and procedures shall include *inter alia*:

- (a) arrangements for the placing of observers by a Contracting Party on vessels flying the flag of another Contracting Party with the consent of that Party;
- (b) an appropriate level of coverage for different fisheries and different sizes and types of fishing vessels;
- (c) requirements for collecting, validation and reporting of scientific information;
- (d) the reporting of information regarding compliance with the provisions of this Convention or any conservation and management measure adopted by the Commission;
- (e) requirements to ensure the safety of observers; and
- (f) requirements for training of observers.

Article 28 **ANNUAL REPORT OF THE COMMISSION**

1. The Commission shall publish an annual report, which shall include details of decisions taken by the Commission to achieve the objective of this Convention. The report shall also provide information on actions taken by the Commission in response to any recommendations from the General Assembly of the United Nations or the Food and Agriculture Organisation of the United Nations.

2. Copies of the report shall be publicly available and shall be provided to the Secretary-General of the United Nations and the Director-General of the Food and Agriculture Organisation of the United Nations.

Article 29 **REVIEWS**

1. The Commission shall organise regular reviews of the effectiveness of the conservation and management measures adopted by the Commission in meeting the objective of this Convention. Such reviews may include examination of the

effectiveness of the provisions of the Convention itself and shall be undertaken at least every five years.

2. The Commission shall determine the terms of reference and methodology of such reviews which shall be carried out in accordance with international best practice and shall include contributions from the subsidiary bodies as appropriate and the participation of a person or persons of recognised competence, representing different multicultural and ethnical environments and who are independent of the Commission with consent of all Contracting Parties.

3. The Commission shall take account of the recommendations arising from any such review, including through the appropriate amendment of its conservation and management measures and the mechanisms for their implementation. Any proposals for amendment to the provisions of this Convention arising from any such review shall be dealt with in accordance with article 35.

4. The results of any such review shall be made publicly available following its adoption by ~~submission to~~ the Commission.

Article 30

COOPERATION WITH OTHER ORGANISATIONS

1. The Commission shall cooperate, as appropriate, with other regional fisheries management organisations, the Food and Agriculture Organisation of the United Nations, with other specialised agencies of the United Nations, and with other relevant organisations on matters of mutual interest.

2. The Commission shall take account of the conservation and management measures or recommendations adopted by other regional fisheries management organisations and other relevant intergovernmental organisations that have competency in relation to areas adjacent to the Area or in respect of living marine resources not covered by this Convention, including dependent or associated species, and that have objectives that are consistent with, and supportive of, the objective of this Convention. It shall endeavour to ensure that its own decisions are compatible with, and supportive of, such conservation and management measures or recommendations.

3. The Commission shall seek to make suitable arrangements for consultation, cooperation and collaboration with such other organisations. In particular it shall seek to develop with such other organisations, a comprehensive cooperative information system relating to the ownership, control and movement of vessels engaged in activities within the competence of the Commission or such other organisations with the aim of reducing and eventually eliminating IUU fishing.

Article 31

NON-PARTIES

1. Contracting Parties shall exchange information with respect to the activities of fishing vessels engaged in fishing in the Area that are flying the flags of non-Contracting Parties to this Convention. Contracting Parties shall take measures, individually or collectively, consistent with this Convention and international law to deter activities of such vessels which undermine the effectiveness of conservation and management measures applicable in the Area, and shall report to the Commission any action taken in response to fishing in the Area by non-Contracting Parties.
2. Taking account of articles 116 to 119 of the 1982 Convention, the Contracting Parties, individually or collectively, may draw the attention of any State or fishing entity which is a non-Contracting Party to this Convention to any activity which in the opinion of the Contracting Party or Parties affects the implementation of the objective of this Convention.
3. Contracting Parties shall, individually or collectively, request non-Contracting Parties to this Convention whose vessels fish in the Area to become party to this Convention and until then to cooperate fully in the implementation of conservation and management measures adopted by the Commission.
4. Contracting Parties, individually or jointly, shall seek the co-operation of any non-Contracting Party that has been identified as a relevant port State or market State to ensure compliance with the objective of this Convention.

Article 32 FISHING ENTITIES

1. After the entry into force of this Convention any fishing entity whose vessels have fished or intend to fish for fishery resources in the Area may, by a written instrument delivered to the Chairperson of the Commission, in accordance with such procedures as may be established by the Commission, express its firm commitment to be bound by the terms of this Convention. Such commitment shall become effective thirty (30) days from the date of receipt of the instrument. Any such fishing entity may withdraw such commitment by written notification addressed to the Chairperson of the Commission. Notice of withdrawal shall become effective 90 days from the date of its receipt by the Chairperson of the Commission.
2. A fishing entity which has expressed its commitment to be bound by the terms of this Convention may participate in the Commission and its subsidiary bodies, and partake in decision making, in accordance with the rules of procedure adopted by the Commission. Articles 1 to 32, article 34(2) and article 35 apply, *mutatis mutandis*, to such a fishing entity.

Article 33 RELATION TO OTHER AGREEMENTS

This Convention shall not alter the rights and obligations of Contracting Parties which arise from the 1982 Convention, the 1995 Agreement, and other agreements

compatible with the 1982 Convention and the 1995 Agreement, and which do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.

Article 34 SETTLEMENT OF DISPUTES

1. Contracting Parties shall use their best endeavours to resolve any disputes by amicable means. At the request of any Contracting Party a dispute may be submitted for binding decision in accordance with the procedures for the settlement of disputes provided in Section II of Part XV of the 1982 Convention or, where the dispute concerns one or more straddling stocks, the procedures set out in Part VIII of the 1995 Agreement. The relevant part of the 1982 Convention and the 1995 Agreement shall apply whether or not the parties to the dispute are also parties to either of these instruments.

2. If a dispute involves a fishing entity which has expressed its commitment to be bound by the terms of this Convention and cannot be settled by amicable means, the dispute shall, at the request of any party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.

Article 35 AMENDMENTS

1. Any Contracting Party may propose an amendment to this Convention by providing to the Depositary the text of a proposed amendment at least 90 days in advance of a Commission meeting. The Depositary shall circulate a copy of this text to all other Contracting Parties promptly.

2. Such proposals for amendment to this Convention shall be adopted by consensus.

3. Amendments to this Convention shall enter into force 90 days after all Contracting Parties which held this status at the time the amendments were adopted have deposited their instruments of ratification, acceptance, or approval of such amendments with the Depositary.

4. Any Contracting Party that acquires that status after the adoption of an amendment in accordance with paragraph 2 shall be deemed to be bound by the Convention as amended once that amendment has entered into force in accordance with paragraph 3.

Article 36 SIGNATURE, RATIFICATION, ACCEPTANCE AND APPROVAL

1. This Convention shall be open for signature by:
 - (a) States and the regional economic integration organisation participating in the International Consultations on the Establishment of the proposed South Pacific Regional Fisheries Management Organisation; and
 - (b) any other State having jurisdiction over waters adjacent to the Area;and shall remain open for signature for 12 (36) months from the date on which it is opened for signature.
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 Depository.

Article 37 ACCESSION

1. This Convention shall be open for accession, after its closure for signature, by any State or regional economic integration organisation referred to in paragraph 1 of article 36 and by any other State or regional economic integration organisation interested in the fishery resources in the Area.
2. Instruments of accession shall be deposited with the Depository.

Article 38 ENTRY INTO FORCE

1. This Convention shall enter into force 30 days from the date of receipt by the Depository of the ~~sixth~~ twelfth instrument of ratification, accession, acceptance or approval, at least ~~two~~ three of which have been deposited by coastal States adjacent to the Area and the other three by distant-water fishing States with the total annual catch in the Convention Area exceeding 5% of the grand total annual catch in the Area within any year since the beginning of fisheries.
2. For each signatory which ratifies, accepts or approves this Convention after its entry into force, this Convention shall enter into force for that signatory 30 days after the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organisation which accedes to this Convention after its entry into force, this Convention shall enter into force for that

State or regional economic integration organisation 30 days after the deposit of its instrument of accession.

Article 39
THE DEPOSITARY

1. [X] shall be the Depositary of this Convention and of any amendments thereto. The Depositary shall transmit certified copies of this Convention to all signatories and shall register this Convention with the Secretary-General of the United Nations pursuant to article 102 of the Charter of the United Nations.

2. The Depositary shall inform all signatories of and Contracting Parties to this Convention of signatures and of instruments of ratification, accession, acceptance or approval deposited under article 36 and of the date of entry into force of the Convention and of any amendments thereto.

Article 40
PARTICIPATION BY TERRITORIES

1. The Commission and its subsidiary bodies shall be open to participation, with the appropriate authorisation of the Contracting Party having responsibility for its international affairs, to territories that have an interest in the fishery resources in the Area.

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 sub-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 41
WITHDRAWAL

Any Contracting Party may withdraw from this Convention at any time after the expiration of two years from the date upon which the Convention entered into force with respect to that Contracting Party, by giving written notice of such withdrawal to the Depositary who shall immediately inform all the Contracting Parties of such withdrawal. Notice of withdrawal shall become effective 90 days from the date of its receipt by the Depositary.

Article 42
TERMINATION

This Convention shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below six at least three of which are coastal States adjacent to the Area and the other three distant-water fishing States.

Article 43
RESERVATIONS

No reservations or exceptions may be made to this Convention.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Convention.

DONE at (place) on this -- day of (month), (year).