

Chilean Proposed Amendments Rev.4

Article 1 DEFINITIONS

- (g) “fishery resources” means fish, molluscs, crustaceans and other sedentary species within the Convention Area, but excluding:
- (i) sedentary species subject to the national fishery jurisdiction of coastal States pursuant to article 77 (4) of the 1982 Convention; and
 - (ii) anadromous and catadromous stocks as well as highly migratory species listed in Annex 1 of the 1982 Convention in so far as they are managed by other international Conventions or Agreements.
- ~~(iii) anadromous and catadromous species;~~
- (o) “port State” means any State receiving fishing vessels in their ports including port offshore terminals and other installations for, *inter alia*, landing, transshipping, refueling, ~~or~~ re-supplying or repairing;

Article 3 CONSERVATION AND MANAGEMENT PRINCIPLES

- (h) cooperation and coordination among Contracting Parties shall be promoted to ensure that conservation and management measures adopted by the Commission and conservation and management measures applied in respect of the same fishery resources in areas under national jurisdiction are compatible and to ensure that the measures established for the Convention Area do not undermine the effectiveness of the coastal State measures.

Article 4 COMPATIBILITY OF CONSERVATION AND MANAGEMENT MEASURES

3. In considering the nature of its initial conservation and management measures in respect of such straddling fishery resources the Commission shall take due account of and do not undermine the existing conservation and management measures established by relevant coastal State Contracting Parties in respect of areas under national jurisdiction and by Contracting Parties in respect of their flag vessels fishing in the adjacent high seas of the Convention Area, ~~and ensure the effectiveness of such measures is not undermined.~~

Article 6
THE ORGANISATION

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; ~~and~~
 - (d) an Undersecretariat for each Subregional Management Committee.**
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Article 9
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 **as necessary** on a permanent or temporary basis taking into account cost implications.

3bis Each subsidiary body shall meet once a year unless otherwise decided by the Commission.

Article 10
SCIENTIFIC COMMITTEE

1. Each Contracting Party shall be entitled to appoint one representative to the Scientific Committee who may be accompanied by **an** alternate representatives ~~and~~ **a reasonable number of** advisers **and experts.**
 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~~ **include** in its report ~~all views~~ **majority and minority views** of its members. The reports of the Scientific Committee shall be made publicly available.
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Article 11
COMPLIANCE COMMITTEE

1. Each Contracting Party shall be entitled to appoint one representative to the Compliance Committee who may be accompanied by an alternate representatives—and a reasonable number of advisers and experts.
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Article 12
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, including on the establishment of a TAC or TAFE, in accordance with article 18, and on participation in fishing for fishery resources, in accordance with article 19, for the parts of the Convention Area described in Annex I. Such recommendations shall be consistent with articles 2 and 3 and with any measures of general application adopted by the Commission. Where appropriate the Committees shall make all efforts to coordinate their recommendations.

1 bis (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 1 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.

- ~~4. (a) Contracting Parties situated adjacent to the part of the Convention Area for which a Committee has responsibility in accordance with this article, or whose fishing vessels are currently fishing in that area or have fished in that area within the past two years, shall be members of that Committee.~~

~~(b) Any Contracting Party that is not a member of a Committee may send a representative to participate in the work of that Committee as an observer.~~

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, recommendations related to conservation and management measures to apply to the relevant part of the Convention Area shall be adopted by 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.** ~~Reports to the Commission may include majority and minority views.~~

Article 16
TRANSPARENCY

2. **According to the rules of procedure established by the Commission, as a general rule, all** meetings of the Commission and its subsidiary bodies shall be **public and** open to ~~all~~ registered participants and observers 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 Convention Area.

Article 18
CONSERVATION AND MANAGEMENT MEASURES

1. When adopting conservation and management measures the Commission shall apply the precautionary approach and ~~the an~~ ecosystem approach in decision-making and shall take full account of advice from the Scientific Committee and other subsidiary bodies.
3. The specific conservation and management measures adopted by the Commission may include the determination of:
 - (a) reference points ~~above~~ **below** which the sustainability of fishery resources and associated and dependent species as well as the functionality of the marine ecosystem is ensured;
5. (c) In cases covered by (a) or (b) above, **through an exercise in compatibility with the coastal State Contracting Party concerned, other complementary Conservation and Management Measures** ~~the Commission~~ may **be adopted, with the consent of the coastal State Contracting Party concerned, other conservation and management measures, which will apply to be applied** throughout the range of the fishery resource.

Annex III

PROCEDURES FOR THE ESTABLISHMENT AND IMPLEMENTATION OF A TOTAL ALLOWABLE CATCH OR TOTAL ALLOWABLE FISHING EFFORT FOR A STRADDLING FISHERY RESOURCE

2. In accordance with article 10, the Scientific Committee shall assess the status of the straddling fishery resource throughout its range and provide advice to the Commission and the relevant Sub-regional Management Committee on an appropriate total allowable catch or total allowable fishing effort for the resource throughout its range. Such advice ~~shall~~ **may** include **different levels of the** risk for the achievement of any management strategy adopted by the Commission of establishing a total allowable catch or total allowable fishing effort, ~~at different potential levels.~~
 3. In accordance with article 12, and on the basis of the advice of the Scientific Committee and any relevant advice of the Compliance Committee, the relevant Sub-regional Management Committee **with the consent of the coastal State concerned** shall make recommendations to the Commission on a total allowable catch or total allowable fishing effort for the fishery resource throughout its range and appropriate measures, **including participation in fishing for fishery resources.** ~~to ensure the total allowable catch or total allowable fishing effort is not exceeded.~~
 4. In accordance with articles 15 and 18, the Commission, on the basis of the recommendations **of the relevant Sub-regional Management Committee** and advice from the Scientific Committee ~~and the relevant Sub-regional Management Committee~~ and any relevant advice of the Compliance Committee **and with the consent of the relevant coastal State,** shall establish a total allowable catch or total allowable fishing effort for the fishery resource throughout its range and adopt appropriate measures **including participation in fishing for fishery resources.** To ensure that the total allowable catch or total allowable fishing effort is not exceeded, **it may also, in an exercise in compatibility, ensure that further measures are adopted, complementary to the TAC or TAFE.**
- 5 new The Chilean jack mackerel and related fishery resources shall be managed by the establishment of a TAC and the corresponding allocations through a decision of the Commission on the basis of a recommendation by the Subregional Management Committee.**

Article 19
PARTICIPATION IN FISHING FOR FISHERY RESOURCES

1. When taking decisions regarding participation in fishing for any fishery resource, including the allocation of a total allowable catch or total allowable fishing effort, the Commission shall take into account the following:

~~(a) the status of the fishery resource and the existing level of fishing effort for that resource;~~

(a) ~~past and present fishing patterns, practices and~~ *The historic* catches, past and present fishing patterns and practices, in the Convention Area, or ~~and practices~~ throughout the range of a fishery resource when the Commission establishes a total allowable catch or total allowable fishing effort for that resource under article 18(5);

(c) demonstrated capacity and willingness to exercise effective flag State control over fishing vessels *and effective monitoring, control, surveillance and enforcement;*

(d) contribution to the conservation and management of fishery resources including the provision of accurate data, the conduct of scientific research; ~~and effective monitoring, control, surveillance and enforcement;~~

~~(e) past and present fishing patterns, practices and catches in the Convention Area, or throughout the range of a fishery resource when the Commission establishes a total allowable catch or total allowable fishing effort for that resource under article 18(5);~~

Article 25
MARKET- RELATED MEASURES

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 and/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, *develop and establish* ~~examine the need for a~~ catch *certification scheme and documentation* or other trade-tracking schemes in respect of each fishery resource. ~~The need for such schemes shall be kept under regular review.~~

Article 30
COOPERATION WITH OTHER ORGANIZATIONS

2. The Commission shall ~~*cooperate closely with*~~ ~~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 the Convention Area, or in relation to areas adjacent to the Convention 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.~~
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Article 34
SETTLEMENT OF DISPUTES

1. Contracting Parties shall use their best endeavours to resolve any disputes concerning the interpretation or application of this Convention by amicable means. At the request of any Contracting Party any such 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~~ *this* instruments.

1(bis) In cases where a dispute between two or more Contracting Parties is of a technical nature, they may refer the dispute to an ad hoc expert panel established in accordance with procedures adopted by the Commission at its first meeting. The panel shall confer with the Contracting Parties concerned and shall endeavor to resolve the dispute expeditiously. If the dispute is not resolved in the period established in the procedures, any Party to the dispute may submit the dispute for binding decision according to paragraph 1.

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~~ *eighth* instrument of ratification, accession, acceptance or approval, ~~at least~~ two of which have been deposited by coastal States adjacent to ~~part of the eastern basin of~~ the Convention Area ~~and two other deposited by coastal States part of the western basin of the Convention Area~~