

PERU'S PROPOSALS
6th International Meeting, Canberra

Title

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

1st paragraph of preamble

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

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2nd paragraph of preamble

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, 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 and customary international law;

4th paragraph of preamble

Taking into consideration that, in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982, the general principles of international law and 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;

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7th paragraph of preamble

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 the high seas

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Article 1 (g) (h)
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 jurisdiction of coastal States pursuant to article 77(4) of the 1982 Convention; and~~
- (ii) highly migratory species listed in Annex I of the 1982 Convention;
- (iii) anadromous and catadromous species;

(h) (new) "fish stock" means subpopulation of a particular species of fishery resources, with tendency to form a structured series of geographic isolated populations and hence self-sustaining, which have a degree of reproductive isolation, genetic differences, morphological variation and exposure to different chemical regimes and parasitic species.

Article 2
OBJECTIVE

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

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Article 3 (h)
CONSERVATION AND MANAGEMENT PRINCIPLES

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 Convention Area do not undermine the effectiveness of the coastal State measures;

Article 3 (k)
CONSERVATION AND MANAGEMENT PRINCIPLES

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k) effective compliance with conservation and management measures shall be ensured and sanctions for any violations shall be adequate in severity to discourage violations in the Convention Area, and in particular shall deprive offenders of the benefits from their violations;

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Article 4 (New)

COMPATIBILITY OF CONSERVATION AND MANAGEMENT MEASURES

1.-The Commission shall recognize the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction and the right of all States for their nationals to engage in fishing on the high seas.

2.-In developing compatible conservation and management measures for straddling fish stocks, the relevant coastal States and States whose nationals fish for such stocks in the adjacent high seas area shall seek, through the Commission, to agree upon measures necessary for the conservation of these stocks in the adjacent high seas area.

3.- In determining compatible conservation and management measures, the Commission, shall:

a) take into account the conservation and management measures adopted and applied in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks by the Commission for the high seas do not undermine the effectiveness of such measures.

b) take into account previously agreed measures established and applied for the high seas in respect of the same stocks by relevant coastal States and States fishing on the high seas.

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

Article 6.2 (b)
THE ORGANISATION

(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

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Article 8 (a)
FUNCTIONS OF THE COMMISSION

adopt conservation and management measures in the Area, including the establishment of total allowable catches and/or total allowable fishing effort to achieve the objective of this Convention;

Article 8 (b)
FUNCTIONS OF THE COMMISSION

determine the nature and extent of participation in fishing for ~~fishery resources~~ fish stocks;

Article 8 (d)
FUNCTIONS OF THE COMMISSION

promote the conduct of scientific research to improve knowledge of fishery resources and marine ecosystems in the Convention Area, and ~~of the same fishery resources in adjacent waters under national jurisdiction,~~ and, in collaboration with the Scientific Committee, establish procedures for the conduct of fishing for scientific purposes;

Article 9.1
SUBSIDIARY BODIES

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.

Article 9.3
SUBSIDIARY BODIES

All subsidiary bodies shall report, advise and make recommendations to the Commission ~~and contribute to regular reviews of the effectiveness of conservation and management measures adopted by the Commission.~~

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Article 9 BIS
SCIENTIFIC STAFF

1. The Commission may engage the services of scientific experts to provide information and advise on the fishery covered by this Convention and related matters that may be relevant to the conservation and management of those fishery resources.

2. The scientific experts shall have the following functions:

(a) Conduct the scientific research projects and other research activities approved by the Commission in accordance with the plans and work adopted for this purpose.

(b) Provide the Scientific Committee with information and recommendations that support to the formulation of conservation and management measures and other relevant matters.

(c) Conduct assessments of fishery stocks and of fisheries resources belonging to the same ecosystem or those dependent upon such fishery stocks, within the area of application of this Convention.

(d) Assess the impacts of fishing, other human activities and environmental factors on fisheries belonging to the same ecosystem or dependent upon or associated with the fishery.

(e) Study and appraise information concerning methods and procedures for sustaining and increasing the fish stocks covered by this Convention.

(f) Perform such other functions and tasks that may be assigned by the Commission

Article 10.2 (a)
SCIENTIFIC COMMITTEE

plan, conduct and review scientific assessments of the status of ~~fishery resources~~ **fish stocks** in the Convention Area and the impact of fishing in the marine ecosystem in the Convention Area as may be required by the Commission;

Article 10.2 (c)
SCIENTIFIC COMMITTEE

encourage and promote cooperation in scientific research in order to improve knowledge of the state of ~~fisheries resources~~ **fish stock** and the marine ecosystems in the Convention Area; ~~including knowledge in relation to fisheries resources straddling the Convention Area and areas under national jurisdiction;~~

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Article 12
~~EASTERN AND WESTERN SUB-REGIONAL MANAGEMENT COMMITTEES~~

Article 14.2
BUDGET

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 in the Convention Area. The Commission shall adopt and amend the proportion in which these contributions are applied taking into account the economic status of each Contracting Party. For Contracting Parties with territory adjoining the Area, this shall be the economic status of that territory. The proportion of contributions shall be set out in the financial regulations of the Commission.

Article 15.6 (a)
DECISION-MAKING

the decision is inconsistent with the provisions of this Convention, and with the applicable provisions of Section II of Part VII of the 1982 Convention, or the 1995 Agreement, or with customary international law,

Article 17
RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES

The Commission 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 fish stocks in the Convention Area and the sustainable use of such resources.

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Article 17.2
RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES

In giving effect to the duty to cooperate in the establishment of conservation and management measures for fishery resources covered by this Convention, the Commission shall take into account the special requirements of developing States

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Parties, in particular small island developing States, and territories and possessions, in particular.

Article 18.1
CONSERVATION AND MANAGEMENT MEASURES

1. The Commission shall adopt conservation and management measures in the Convention Area based on the best scientific information available, the precautionary approach and the ecosystem approach in decision-making taking into account advice from the Scientific Committee and other subsidiary bodies.

Article 18.2 (a) y (b)
CONSERVATION AND MANAGEMENT MEASURES

2. The conservation and management measures adopted by the Commission in the Convention Area shall include measures to:

- (a) ensure the long-term sustainability of ~~fishery resources~~ fish stocks and promote the objective of their responsible utilisation;
- (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~~ fish stocks;

Article 18.3 (a) y (c)
CONSERVATION AND MANAGEMENT MEASURES

- (a) reference points above which the sustainability of ~~fishery resources~~ fish stock and associated and dependent species as well as the functionality of the marine ecosystem is ensured;
- (c) the nature and extent of fishing for any ~~fishery resources~~ fish stock including the establishment of a total allowable catch or total allowable fishing effort;

Article 18.4 (New)
CONSERVATION AND MANAGEMENT MEASURES

In addition to the measures adopted under this article, the Commission shall determine a total allowable catch or total allowable fishing effort based on the results of the scientific research carried out by scientific experts and with the advice and recommendation of the Scientific Committee, within three years of the entry into force of this Convention.

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Article 18.5 (New)

CONSERVATION AND MANAGEMENT MEASURES

5. In determining the total allowable catch or total allowable fishing effort for each fishery, the Commission shall take into account, inter alia: biological reference points, stock conditions in relation to such reference points, size and productivity of the stocks, levels and distribution of fishing mortality and the impact of fishing activities on associated or dependent species, as well as existing and predicting oceanic environmental conditions.

Article 18.6 (New)

CONSERVATION AND MANAGEMENT MEASURES

6. The Commission shall take measures to ensure that the total allowable catch based on biological reference points will not be exceeded. In the event it is exceeded the Commission shall, without delay, take action to restore the stocks.

Article 18.7 (New)

CONSERVATION AND MANAGEMENT MEASURES

7. The Commission shall regularly review the total allowable catch or total allowable effort for each fishery, taking into account the advice and recommendation of the Scientific Committee.

Article 18.8

CONSERVATION AND MANAGEMENT MEASURES

~~(6)~~ 8. The Commission shall adopt measures to be applied on an emergency basis, in accordance with article 15, including intersessionally, if necessary, where fishing presents a serious threat to the sustainability of ~~fishery resources~~ fish stocks 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~~ fish stocks to ensure that fishing does not exacerbate such threat or adverse impact.

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Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 18.9
CONSERVATION AND MANAGEMENT MEASURES

~~(7).~~9. The conservation and management measures adopted by the Commission shall be progressively developed and integrated into management strategies or plans that set out the management objectives for each ~~fishery resources~~ fish stocks, the reference points against which to measure progress in relation to those objectives, the indicators to be used in relation to those reference points and the measures to be taken in response to particular indicator levels.

Article 19
PARTICIPATION IN ~~FISHING FOR FISHERY RESOURCES~~ FISHERIES

Article 19.1 (a) (c) (d) (e) (f) (g) (h)
PARTICIPATION IN FISHERIES

1. When taking decisions regarding participation in fishing for any ~~fishery resources~~ fish stocks, 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 resources~~ fish stocks and the existing level of fishing effort for that ~~resource stocks~~
 - (c) demonstrated ~~capacity and~~ willingness to exercise effective flag State control over fishing vessels;
 - (d) contribution to the conservation and management of ~~fishery resources~~ fish stocks 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 resources~~ fish stock ~~when the Commission establishes a total allowable catch or total allowable fishing effort for that resource stock under article 18(5);~~
 - (f) the interests of developing States in particular small island developing States and of territories and possessions in whose areas of national jurisdiction the same ~~fishery resources~~ fish stocks also occurs;
 - (g) the needs of coastal States and of territories and possessions whose economies are overwhelmingly dependent on the exploitation of ~~fishery resources~~ fish stocks

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(h) the needs of coastal fishing communities which are dependent mainly on fishing for the ~~fishery resources~~ fish stocks.

(j) contribution to the responsible development of new fisheries.

Article 19.2 BIS
PARTICIPATION IN FISHERIES

2. When determining the allocation of total allowable catch or total allowable fishing effort, the Commission will reserve twenty percent of the total allowable catch or total allowable fishing effort in order to be subsequently assigned to developing coastal States and small island developing States that, although having the same fishery resources in waters under their jurisdiction, do not have historical catch patterns for the fisheries defined under article 1 (g) of this Convention at the date of entry into force of this Convention. In the intervening time, the Commission may assign the twenty percent reserve to Contracting Parties currently fishing in the Area of application of this Convention.

Article 19.3
PARTICIPATION IN FISHERIES

3. The Commission shall regularly review decisions regarding participation in fishing for ~~fishery resources~~ fish stocks, including the allocation of a 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 20.1
DEVELOPMENT OF NEW ~~FISHERY RESOURCES~~ FISHERIES

1. A ~~fishery resource~~ fish stock in the Convention Area 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~~ fish stock, and any associated or dependent species, and appropriate measures to protect, in the Convention Area, the marine ecosystem in which that ~~fishery resource~~ occurs from adverse impacts of fishing activities.

Article 20.2
DEVELOPMENT OF NEW ~~FISHERY RESOURCES~~ FISHERIES

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

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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~~ fisheries ~~resource~~ 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.

Article 20.3
DEVELOPMENT OF NEW ~~FISHERY RESOURCES~~ FISHERIES

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 fish stock ~~fishery resources~~ prior to the commencement of fishing for such new ~~fishery resources~~ fish stocks.

Article 21.1
DATA COLLECTION, COMPILATION AND EXCHANGE

To enhance the information base for the conservation and management of ~~fishery resources~~ fish stocks, associated and dependent species and the protection 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~~ stocks, the Commission shall, taking full account of Annex I of the 1995 Agreement, develop standards, rules and procedures for, inter alia:

Article 21.2
DATA COLLECTION, COMPILATION AND EXCHANGE

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

Article 22.2
CONTRACTING PARTY DUTIES

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, including in respect of its flag fishing vessels, ports, markets, industries and nationals operating on fishing vessels and including the outcome of any actions under paragraph 3 of this article. ~~In the case of coastal States that are Contracting Parties to this Convention, the report shall include~~

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~~information regarding the conservation and management measures they have taken for straddling fishery resources occurring in waters under their jurisdiction adjacent to the Convention Area. Such reports shall be made publicly available.~~

Article 23.1(b)
FLAG STATE DUTIES

(b) fishing vessels flying its flag do not conduct unauthorized fishing within waters ~~under national jurisdiction adjacent~~ to the Convention Area;

Article 23.3(a)
FLAG STATE DUTIES

authorise the use of vessels flying its flag for fishing in the Area only ~~when there is a genuine link between the flag State Contracting Party and such vessels~~ in accordance with international law;

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Article 23.3(f)
FLAG STATE DUTIES

~~make all efforts to 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;;

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Article 24.2 (a)
PORT STATE DUTIES

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 ~~arrive to~~ its ports or at its offshore terminals

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Article 24.2 (c)
PORT STATE DUTIES

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provide assistance to flag State Contracting Parties, as reasonably practical and in accordance with its national law and international law, when a fishing vessel arrives to 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

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Article 26.5
MONITORING, COMPLIANCE AND ENFORCEMENT

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 applicable provisions of this Convention, the 1982 Convention, the 1995 Agreement or with customary international law.

Article 30.2
COOPERATION WITH OTHER ORGANISATIONS

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 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.~~

Article 33
RELATION TO OTHER AGREEMENTS AND OTHER RULES OF THE INTERNATIONAL LAW

This Convention shall not alter the rights and obligations of Contracting Parties that are Parties of the 1982 Convention or the 1995 Agreement, and other agreements compatible with the 1982 Convention and the 1995 Agreement, which do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention, and those that concern all Contracting Parties under customary international law.

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Article 34.1
SETTLEMENT OF DISPUTES

Contracting Parties shall use their best endeavours to resolve their disputes concerning the application and interpretation of this Convention by amicable means. At the request of any Contracting Party a dispute concerning the application and interpretation

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of this Convention 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 applicable part of Section II of Part VII of the 1982 Convention and the 1995 Agreement shall be taken into consideration—whether or not the parties to the dispute are also parties to either of these instruments.

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**Article 38.1
ENTRY INTO FORCE**

This Convention shall enter into force 30 days from the date of receipt by the Depository of the twelfth instrument of ratification, accession, acceptance or approval, at least six of which have been deposited by coastal States adjacent to the Area

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**Article 41 BIS
TERMINATION**

This Convention shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below six or the number of coastal States Contracting Parties drops below four.

**Article 42
RESERVATIONS**

~~No reservations or exceptions may be made to this Convention.~~

States and regional economic integration organisations may formulate reservations when signing, ratifying, acceding, accepting or approving the Convention. Reservations shall be compatible with the object and purpose of this Convention, and they become immediately effective when the Convention enters into force for that Contracting Party

Deleted: No reservations or exceptions may be made to this Convention.

**Article 43 BIS
OFFICIAL LANGUAGES**

The official languages of the Organisation shall be English and Spanish. Therefore, all official documents shall be duly translated into those official languages.

**Article 45
INTERIM ARRANGEMENTS**

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In order to ensure the conservation and sustainable use of fishery resources and to strengthen the effective exercise of flag state responsibility by Contracting Parties for fishing vessels flying their flag, the Interim Arrangements set out in Annex IV shall apply upon the entry into force of this Convention and remain in force until the Commission decides otherwise.

New Article (46)
AUTHENTIC TEXTS

The original of this Convention, of which the English and Spanish version texts are equally authentic, shall be registered with the Secretary General of the United Nations.

~~Annex I~~
~~PARTS OF THE CONVENTION AREA FOR WHICH THE EASTERN AND~~
~~WESTERN SUB-REGIONAL MANAGEMENT COMMITTEES HAVE~~
~~RESPONSIBILITIES~~

~~Annex II~~
~~REVIEW PANEL~~

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

~~Annex IV~~
~~INTERIM ARRANGEMENTS~~