

9 October 2008

## **European Community Proposal**

### **Article 15**

#### **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. Decisions on questions of substance shall be taken by consensus. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance.

2. If the Chairman considers that all efforts to reach a decision by consensus have been exhausted, decisions of the Commission shall, except where the Convention expressly provides that a decision shall be taken by consensus, be taken by two-thirds majority of the votes of all Contracting Parties present and casting affirmative or negative votes

The vote is valid only when a quorum of at least two-thirds of the Contracting Parties are present and cast affirmative or negative votes.

Each Contracting Party shall have one vote in the voting proceedings of the Commission.

### **Article 15 bis**

#### **IMPLEMENTATION OF COMMISSION DECISIONS**

1. Each decision adopted by the Commission pursuant to Article 6 shall become binding on the Contracting Parties in the following manner:

a) The Executive Secretary shall within five working days transmit each decision to all Contracting Parties, specifying the date of transmittal for the purposes of paragraph 2.

b) Subject to the provisions of paragraph 2, the decision shall become binding upon all Contracting Parties ninety days following the date of transmittal

pursuant to subparagraph a) unless otherwise specified in the proposal.

2. Any Contracting Party may present to the Executive Secretary an objection to a decision within ninety days of the date of transmittal specified in the notification of the measure by the Executive Secretary.

The decision shall become a binding measure on all Contracting Parties, except those which have presented objections.

3.

a) As a matter of principle, an objection is justified only where there is :

- inconsistency of the measure with the Convention, or
- the measure discriminates in any form or fact against that Contracting Party.

b) Any Contracting Party which presents an objection to a measure under this paragraph shall at the same time:

- Provide a written and detailed explanation for its reasons for taking this action.
- Adopt alternative measures for the conservation, management and control of the relevant fishery resources in accordance with the objectives of this Convention and notify them to the Commission.

Where the adoption of the measures is in progress, it shall send to the Commission a draft of them and indicate when they are effective.

4. Any Contracting Party which has objected to a decision may at any time withdraw that objection and the proposal shall then become a binding measure on such a Contracting Party.

5. The Executive Secretary shall immediately notify each Contracting Party of:

- a) the receipt of each objection and withdrawal of objection under paragraphs 2 and 3;
- b) the date on which any proposal becomes a binding measure under the provisions of paragraph 1;
- c) the explanation and description of alternative measures received under paragraph 3.

6. In the event that a Contracting Party invokes the procedure set out in paragraphs 2 the Commission, at the request of any other Contracting Party, shall meet in an Extraordinary Session, within 30 days from the date of the receipt by the Executive Secretary of the request, to assess the reasons presented for the objection.

The Commission shall accordingly decide by consensus:

a) to confirm the measure or to modify or repeal it;

b) to decide on the compatibility of the alternative measures presented in respect of the objectives of the Convention and of the management and conservation measures that they are supposed to replace.

When the Commission decides that the alternative measures are compatible with the management and conservation measures that they are supposed to replace, these alternative measures shall be deemed to be equivalent to those measures.

7. Where the Commission has decided that the alternative measures are not equivalent to those measures and where the Contracting Party which has objected maintains its objection, any Contracting Party may request the constitution of an ad hoc expert Technical Panel established in accordance with the provisions set out in Annex II to this Convention.

The Technical Panel decides by consensus within 30 days after its constitution on the conformity of the alternative measures presented by the Contracting Party which has objected with the measures presented by the Commission.

The conclusions of the Technical Panel are sent by the Secretariat to this Contracting Party which notifies within 30 days whether it follows the conclusions of the Panel and therefore withdraw its objection.

8. Where the procedures set out in paragraphs 6 to 7 have been concluded, any Contracting Party may invoke the dispute settlement procedures set out in Article 34.