



COMISIÓN PERMANENTE DEL PACÍFICO SUR (CPPS)

COLOMBIA, CHILE, ECUADOR Y PERÚ

**SECRETARÍA GENERAL
Guayaquil, Ecuador**

SG/CPPS/AO/VII/008-A
(Tema 5.1 de la Agenda)

**SEXTA RONDA INTERNACIONAL DE NEGOCIACIONES PARA EL
ESTABLECIMIENTO DE UNA NUEVA ORGANIZACIÓN REGIONAL
DE ORDENAMIENTO PESQUERO DEL PACÍFICO SUR**

PROYECTO DE CONVENCIÓN – REVISIÓN 4

Canberra, Australia, 6 – 10 de octubre de 2008

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DRAFT

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 maintaining the integrity of 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;

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 protection 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) 'Convention Area' means the area to which this Convention applies in accordance with article 5;
- (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 to ensure the long-term conservation and sustainable use of those resources while maintaining the integrity of those ecosystems;
- (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) '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;
- (i) 'fishing vessel' means any vessel used or intended for fishing, including fish processing vessels, support ships, carrier vessels and any other vessel directly engaged in fishing operations;
- (j) 'flag State' means, unless otherwise indicated:
 - (i) a State whose fishing vessels are entitled to fly its flag; or
 - (ii) a regional economic integration organisation in which fishing vessels are entitled to fly the flag of a Member State of that regional economic integration organisation;
- (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 Convention 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 Convention Area on board a fishing vessel to another fishing vessel either at sea or in port.

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 while maintaining the integrity of the marine ecosystems in which those resources occur.

Article 3 CONSERVATION AND MANAGEMENT PRINCIPLES

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, taking full account of international best practice;
- (b) fishing shall be commensurate with the sustainable use of fishery resources taking into account the impacts on associated and dependent species and the general obligation 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 including information relating to 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 and technical information available;
- (f) the precautionary approach;
- (g) an ecosystem approach to fisheries management;
- (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.
- (i) marine ecosystems shall be protected, in particular those ecosystems which have long recovery times following disturbance;

- (j) the interests of developing States, in particular 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;
- (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 accruing from their illegal activities;
- (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

COMPATIBILITY OF CONSERVATION AND MANAGEMENT MEASURES

1. The Contracting Parties recognise the need to ensure compatibility of conservation and management measures established for fishery resources that are identified as straddling areas under the national jurisdiction of a coastal State Contracting Party and the adjacent high seas of the Convention Area and acknowledge their duty to cooperate to this end.
2. In developing compatible conservation and management measures for straddling fishery resources Contracting Parties shall :
 - (a) take into account the biological unity and other biological characteristics of the fishery resources and the relationships between the distribution of the resources, the fishing activities for those resources and the geographical particularities of the region concerned, including the extent to which the fishery resources occur and are fished in areas under national jurisdiction:
 - (b) take into account the respective dependence of the coastal States and the States fishing on the high seas on the fishery resources concerned: and
 - (c) ensure that such measures do not result in harmful impact on the living marine resources as a whole in the Convention Area.
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 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 5
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 6
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. 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 7 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 in the same capacity. 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, unless the Commission decides otherwise, at a time and location to be decided by the Commission. The Commission shall hold such other meetings as may be necessary to carry out its functions under this Convention.
4. The principle of cost effectiveness shall apply to the frequency, duration and scheduling of meetings of the Commission and its subsidiary bodies.
5. The Commission shall, at a meeting by consensus, adopt and amend as necessary its rules of procedure. Such rules may include procedures for taking and recording decisions intersessionally.

Article 8
FUNCTIONS OF THE COMMISSION

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 fishing for fishery resources;
- (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 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 in the Convention Area;
- (e) co-operate and exchange data with relevant organisations and coastal States, territories and possessions and promote compatibility of adjacent areas;
- (f) develop and establish effective monitoring, control, surveillance, compliance and enforcement procedures, including non-discriminatory market-related and trade-related measures;
- (g) develop processes in accordance with international law to assess Flag State performance with respect to the implementation of their obligations under this Convention and adopt proposals if appropriate to promote 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) adopt the budget of the Organisation;
- (m) adopt and amend as necessary its rules of procedure, financial regulations and any other regulations necessary for the exercise of its functions;
- (n) exercise any other function and take any other decisions that may be necessary for achieving the objective of this Convention.

**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 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, provided always that such specific terms of reference are 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 and contribute to regular reviews of the effectiveness of conservation and management measures adopted by the Commission.
4. 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.
5. All subsidiary bodies may establish working groups. Subsidiary bodies may also seek external advice as required in accordance with any general or specific guidance provided by the Commission.
6. All subsidiary bodies shall operate under the rules of procedure of the Commission 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 alternate representatives and advisers.
2. The functions of the Scientific Committee shall be to:
 - (a) plan, conduct and review scientific assessments of the status of fishery resources including, in accordance with article 18(5) and Annex III, fishery resources that straddle the Convention Area and areas under national jurisdiction and provide advice to the Commission and its subsidiary bodies based on such assessments;
 - (b) provide advice and recommendations to the Commission and its subsidiary bodies on the impact of fishing on the marine ecosystems in the Convention

Area including advice and recommendations on the identification and distribution of vulnerable marine ecosystems, the likely impacts of fishing on such vulnerable marine ecosystems and measures to prevent significant adverse impacts on them;

- (c) encourage and promote cooperation in scientific research in order to improve knowledge of the state of fishery resources and the marine ecosystems in the Convention Area including knowledge in relation to fisheries resources straddling the Convention Area and areas under national jurisdiction;
- (d) provide such other scientific advice to the Commission and its subsidiary bodies as it considers appropriate, or as may be requested 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. The reports of the Scientific Committee shall be made publicly available.

4. The Commission shall make appropriate arrangements for the periodic independent peer review of the Scientific Committee's reports, advice and recommendations.

Article 11 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 and recommendations 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 and recommendations relating to compliance with, and enforcement of, this Convention as it considers appropriate or as may be required by the Commission;
- (c) coordinate compliance activities undertaken by or on behalf of the Commission.

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, 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.
2. The Commission may amend Annex I at any time in accordance with article 44 *inter alia* to assign to one Committee the primary responsibility for developing and recommending conservation and management measures for specific fishery resources throughout the range of those resources, or to adjust the geographic coordinates set out in Annex I. In considering any amendments to Annex I the Commission shall take full account of any advice or recommendations from the Scientific Committee and the Eastern and Western Sub-regional Management Committees.
3. Each Committee shall develop its recommendations on the basis of the advice and recommendations of the Scientific Committee.
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.
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. Reports to the Commission may include majority and minority views.
6. Where under this article a Sub-regional Management Committee has made recommendations for the part of the Convention Area for which it has responsibility the Commission shall adopt conservation and management measures in accordance with article 18 and decisions on participation in fishing for fishery resources in accordance with article 19 on the basis of those recommendations. The Commission may request a Sub-regional Management Committee to recommend conservation and management measures, including for a specific fishery resource or associated and dependent species, within a specified reasonable time.
7. 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 13
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 in accordance with such staff regulations as may be determined by the Commission.
4. The Executive Secretary shall ensure the effective functioning of the Secretariat.
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 14
BUDGET**

1. The Contracting Parties, at their first meeting, shall adopt a budget to fund the Commission and its subsidiary bodies, and shall also adopt financial regulations. All decisions on the budget and financial regulations, including decisions relating to the contributions of Contracting Parties and the formula for calculating such contributions, shall be taken by consensus.
2. Each Contracting Party shall contribute to the budget. The amount of the annual contributions due from each Contracting Party shall be a combination of a variable fee based on its total catch of such fishery resources as may be specified by the Commission and a basic fee and shall take account of its economic status. For Contracting Parties whose only catch in the Convention Area is that of its territories adjoining the Convention Area the economic status shall be that of the territory concerned. The Commission shall adopt and may amend a formula for the calculation of these contributions which 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 submit a draft of the annual budget for the two succeeding financial years 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. Each annual meeting of the Commission shall adopt a budget for the succeeding financial 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 meeting of the Commission, the Executive Secretary shall notify each Contracting Party of its contribution due as calculated under the formula adopted by the Commission pursuant to paragraph 2 and as soon as possible thereafter each Contracting Party shall pay its contribution to the Organisation.

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 formula for contributions referred to in paragraph 2, 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 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.

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. Subject to paragraphs 8 and 9, a decision of the Commission shall become binding 90 days after the date of its adoption.

6. 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 II 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.

7. 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.

8. 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.

9. 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.

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

Article 16
TRANSPARENCY

1. The Contracting Parties shall promote transparency in decision-making processes and other activities carried out under this Convention.
2. All meetings of the Commission and its subsidiary bodies shall be 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.
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 and fishing industry organisations with an interest in matters pertaining to the Commission shall be afforded 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. The rules of procedure shall also provide for such representatives to have timely access to all relevant information.

Article 17
RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES

1. The Commission shall give full recognition to the special requirements of developing States Parties to this Convention, in particular 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 Convention 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 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 fishing for fishery resources, including facilitating access to such fishery resources 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. The financial regulations of the Commission shall include guidelines for the administration of the fund and criteria for eligibility for assistance.

Article 18
CONSERVATION AND MANAGEMENT MEASURES

1. When adopting conservation and management measures the Commission shall apply the precautionary approach and the ecosystem approach in decision-making and shall take full account of advice from the Scientific Committee and other subsidiary bodies.
2. The conservation and management measures adopted by the Commission shall include measures to:
 - (a) ensure the long-term sustainability of fishery resources 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;
 - (c) maintain or restore populations of associated and dependent species to above levels at which their reproduction may become seriously threatened;
 - (d) protect the habitats and marine ecosystems in which fishery resources and associated and dependent species occur from the impacts of fishing, including measures to prevent significant adverse impacts on vulnerable marine ecosystems and precautionary measures where substantial uncertainty exists as to the presence of vulnerable marine ecosystems or the impacts of particular fishing activities on such ecosystems.
3. The specific conservation and management measures adopted by the Commission may include the determination of:
 - (a) reference points above which the sustainability of fishery resources and associated and dependent species as well as the functionality of the marine ecosystem is ensured;
 - (b) the actions to be taken if those reference points are approached or exceeded;
 - (c) the nature and extent of fishing for any fishery resource including the establishment of a total allowable catch or total allowable fishing effort;
 - (d) the general or specific locations in which fishing may occur;
 - (e) the periods in which fishing may occur;
 - (f) the size limits in respect of the catch which may be retained;
 - (g) the types of fishing gear, fishing technology, or fishing practices which may be used when fishing.
4. In determining a total allowable catch or total allowable fishing effort for any fishery resource under paragraph 3(c) of this article, the Commission shall take into account the following factors:
 - (a) the status and stage of development of the fishery resource;

- (b) fishing patterns of the fishery resource;
- (c) catch of the same fishery resource within areas under national jurisdiction;
- (d) an allowance for discards and any other incidental mortality
- (e) catch of associated or dependent species and impacts on the marine ecosystems in which the fishery resource occurs;
- (f) relevant ecological and biological factors limiting the nature of fishery resources that may be harvested;
- (g) relevant environmental factors which may have an effect upon the fishery resource and associated or dependent species;
- (h) relevant conservation and management measures adopted by other intergovernmental organisations.

The Commission shall regularly review the total allowable catch or total allowable fishing effort established for any fishery resource.

5. (a) For a fishery resource that straddles an area under the national jurisdiction of a coastal State Contracting Party and the adjacent high seas of the Convention Area, the Commission shall, with the consent of the coastal State concerned, establish, in accordance with Annex III of this Convention, as appropriate, a total allowable catch or total allowable fishing effort, that will apply throughout the range of the fishery resource
- (b) In the case where a fishery resource straddles areas under the national jurisdiction of more than one coastal State Contracting Party and the adjacent high seas of the Convention Area, and one or more of the coastal State Contracting Parties does not consent to a total allowable catch or total allowable fishing effort that will apply throughout the range of the fishery resource, the Commission may establish, as appropriate, a total allowable catch or total allowable fishing effort that will apply in the areas of national jurisdiction of the consenting coastal State Contracting Party or Parties and the adjacent high seas of the Convention Area. Annex III will apply *mutatis mutandis* to the establishment of this total allowable catch or total allowable fishing effort by the Commission.
- (c) In cases covered by (a) or (b) above, the Commission may adopt, with the consent of the coastal State Contracting Party concerned, other conservation and management measures, which will apply throughout the range of the fishery resource.
- (d) If the Commission does not take action under paragraphs (a) or (b) above, it shall adopt conservation and management measures including, as appropriate, a total allowable catch or total allowable fishing effort for the straddling fishery resource that apply only in the adjacent high seas of the Convention Area. The Commission and the coastal State Contracting Party or Parties concerned shall cooperate in the coordination of their respective conservation and management measures in accordance with article 4 of this Convention.

- (e) All conservation and management measures, including a total allowable catch or total allowable fishing effort adopted by the Commission under this paragraph, and in accordance with Annex III, in relation to a straddling fishery resource are without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction under the 1982 Convention and the 1995 Agreement and do not in any other respect affect the area of application of the Convention established by article 5.

6. 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 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 such threat or adverse impact. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

7. 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 resource, 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

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
- (b) compliance with the conservation and management measures under this Convention;
- (c) demonstrated capacity and willingness to exercise effective flag State control over fishing vessels;
- (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);

- (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 resource also occurs;
- (g) the needs of coastal States and of territories and possessions whose economies are overwhelmingly dependent on the exploitation of fishery resources
- (h) the needs of coastal fishing communities which are dependent mainly on fishing for the fishery resource;
- (i) the extent to which a Contracting Party is utilising the catch for domestic consumption and the importance of the catch to its food security
- (j) contribution to the responsible development of new fishery resources

In taking decisions under this article, the Commission may also have regard, as appropriate, to performance with respect to other fisheries management regimes.

2. Decisions by the Commission on participation in fishing for a fishery resource, including the allocation of a total allowable catch or total allowable fishing effort, shall be taken by consensus.

3. The Commission shall regularly review decisions regarding participation in fishing for fishery resources, 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

DEVELOPMENT OF NEW FISHERY RESOURCES

1. 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 appropriate measures 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 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.

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 fishery resources prior to the commencement of fishing for such new fishery resources.

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 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, 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 Convention Area, the status of fishery resources managed under this Convention, fishery resource assessments, research programmes in the Convention 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 Convention 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 fishery resources and marine ecosystems in the Convention 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, 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 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.

3. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall, subject to its national law, immediately investigate any alleged violation by its nationals, or fishing vessels owned, operated or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission, including on the basis of relevant information communicated by any other Contracting Party. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the Commission and the Contracting Party communicating the relevant information as soon as practicable and in any case within two months of the receipt of the relevant information. A report on the outcome of the investigation shall be provided when the investigation is completed.

4. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall, to the greatest extent possible, take action, or cooperate, to ensure that its nationals, fishing vessels owned, operated or controlled by its nationals fishing in the Convention 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 Convention 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 Convention Area;
 - (c) it develops and implements a satellite vessel monitoring system for fishing vessels flying its flag and fishing in the Convention Area in accordance with standards and procedures adopted by the Commission;
 - (d) fishing vessels flying its flag:
 - (i) land or tranship fishery resources caught in the Convention 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 adopted by the Commission and/or have been transhipped in accordance with relevant procedures adopted by the Commission; or
 - (ii) tranship at sea only when: there is full observer coverage; all of the transhipped fish or fish products 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 Convention 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 fishing vessels flying its flag for fishing in the Convention 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 Convention 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. Reporting shall include reports on the progress of the investigation to the Commission at appropriate regular intervals, to the extent permitted by national law, 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 Convention 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, establish arrangements for making available to prosecuting authorities of other Contracting Parties evidence related to alleged violations, including information available on the beneficial ownership of vessels flying its flag.
4. Each flag State Contracting Party shall ensure that fishing vessels flying its flag engaged in or intending to engage in research into fishery resources comply with any procedures established by the Commission for the conduct of scientific research in the Convention Area.

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) in accordance with the conservation and management measures adopted by the Commission, not permit landings, transshipment, or supply services in

relation to fishing vessels that have engaged in fishing in the Convention Area unless the vessels concerned have satisfied it that fish on board 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 fishing 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, as appropriate 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

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, examine the need for catch documentation or other trade-tracking schemes in respect of each fishery resource. 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 resources and thereby facilitate the identification of any such fish or fish products not caught in a manner consistent with the conservation and management measures adopted by the Commission.

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 Convention 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 programme, both at sea and in port, including procedures for boarding and inspection of vessels, and procedures for notification of inspection vessels and aircraft that may participate in the programme all of which shall be clearly marked and identifiable as being on government service and authorised to undertake high seas boarding and inspection in accordance with this Convention;
 - (c) regulation and supervision of transshipment;
 - (d) the reporting on infringements detected, progress and outcomes of investigations, and enforcement actions taken; and
 - (e) addressing IUU fishing activities in the Convention 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 the benefits accruing from those activities.
3. The Commission may adopt procedures that enable measures, including trade-related measures in relation to fishery resources, to be applied by Contracting Parties to any state or entity whose fishing vessels engage in fishing activities that diminish the effectiveness of, or otherwise fail to comply with, the conservation and management measures adopted by the Commission. Such measures should include a range of possible responses so that account can be taken of the reason for and degree of non-compliance and should include cooperative capacity-building initiatives. 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.

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 Convention 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 manner which takes into account the nature of the fishery resources 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 collection, validation and reporting of scientific information;
- (d) requirements for reporting on monitoring of the implementation of the provisions of this Convention and the conservation and management measures 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 who is independent of the Commission.

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 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 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.

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 Convention 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 Convention Area, and shall report to the Commission any action taken in response to fishing in the Convention 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 Convention 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. Any such non-Contracting Party may notify the depositary that it is undertaking the domestic law processes to enable it to become party to the Convention and will so cooperate pending the conclusion of those processes. Following receipt of such notification the Commission may invite the non-Contracting Party to attend meetings of the Commission and its subsidiary bodies as an observer.

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 Convention 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 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 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 Executive Secretary the text of a proposed amendment at least 90 days in advance of a Commission meeting. The Executive Secretary 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 Convention Area;and shall remain open for signature for 12 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 Depositary.

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 Convention Area.
2. Instruments of accession shall be deposited with the Depositary.

Article 38
ENTRY INTO FORCE

1. This Convention shall enter into force 30 days from the date of receipt by the Depositary of the sixth instrument of ratification, accession, acceptance or approval, at least two of which have been deposited by coastal States adjacent to the Convention Area.
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 Convention 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 RESERVATIONS

No reservations or exceptions may be made to this Convention.

Article 43 DECLARATIONS AND STATEMENTS

Article 42 does not preclude a State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated adjacent to the Convention Area, or regional economic integration organisation, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonisation of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State, entity or regional economic integration organisation.

Article 44 ANNEXES

1. The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Annexes relating thereto.

2. The Annexes to this Convention may be revised from time to time and any member of the Commission may propose revisions to an Annex. Notwithstanding the provisions of article 35, if a revision to an Annex is adopted by consensus at a meeting

of the Commission, it shall be incorporated in this Convention and shall take effect from the date of its adoption or from such other date as may be specified in the revision.

Article 45
INTERIM ARRANGEMENTS

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.

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).

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

1. 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 Convention Area that lies east of Meridian 120°.
2. 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 Convention Area that lies west of Meridian 120°.

**Annex II
REVIEW PANEL**

1. In accordance with article 15, paragraph 6, an application for review of a decision of the Commission shall be submitted within 30 days of the adoption of the decision by written notification to the Executive Director. Such notification shall be accompanied by a statement of the grounds upon which the review is sought. The Executive Director shall circulate copies of the notification and the accompanying statement to all Contracting Parties.
2. The review panel shall be constituted as follows:
 - (a) The review panel shall consist of three members appointed in accordance with this Annex from the list of experts in the field of fisheries drawn up and maintained by the Food and Agriculture Organization of the United Nations pursuant to Annex VIII, article 2, of the 1982 Convention or a similar list maintained by the Executive Director;
 - (b) The Contracting Party submitting the application for review ("the applicant") shall appoint one member, who may or may not be its national. The appointment shall be included in the written notification referred to in paragraph 1;
 - (c) Where more than one Contracting Party is seeking review of the same decision, such Contracting Parties shall, within 20 days of receipt of the first notification submitted, appoint one member of the panel jointly by agreement, irrespective of the grounds upon which review is sought by each applicant. If the Contracting Parties concerned are unable to reach agreement on the appointment, the appointment shall be made in accordance with subparagraph (f), at the request of any such Contracting Party;
 - (d) The Chairperson of the Commission shall, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, appoint one member;

- (e) The other member shall be appointed by agreement between the Contracting Party or Parties seeking the review and the Chairperson of the Commission. They shall appoint the President of the review panel from among those three members. If, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, the Contracting Party or Parties seeking the review and the Chairperson of the Commission are unable to reach agreement on the appointment of one or more members of the panel to be appointed by agreement, or on the appointment of the President of the review panel, the remaining appointment or appointments shall be made in accordance with subparagraph (f), at the request of any party. Such request shall be made within 10 days of the expiration of the aforementioned 20 day period;
 - (f) Unless the parties agree that any appointment under subparagraphs (c), (d) and (e) of this paragraph be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments.
 - (g) Any vacancy shall be filled in the manner described for the initial appointment.
3. A hearing shall be convened at a place and on a date to be determined by the panel within 30 days following the constitution of the review panel.
4. The review panel shall determine its own procedures, providing for the expeditious conduct of the hearing and assuring to the applicant or applicants full opportunity to be heard and to present its or their case.
5. The Executive Director shall act on behalf of the Commission and shall provide the review panel with sufficient information to enable it to understand the basis upon which the decision was made.
6. Any Contracting Party of the Commission may submit a memorandum to the review panel concerning the matter under review and the panel shall allow any such Contracting Party full opportunity to be heard.
7. Unless the review panel decides otherwise because of the particular circumstances of the case, the expenses of the review panel, including the remuneration of its members, shall be borne as follows:
- (a) 70 per cent shall be borne by the applicant or, if there is more than one applicant, divided equally among the applicants; and
 - (b) 30 per cent shall be borne by the Commission from its annual budget.
8. Any decision of the review panel shall be taken by a majority of its members.
9. If the applicant or, where there is more than one applicant, any one of them, does not appear before the review panel, the panel may continue the proceedings and make

its findings and recommendations. Absence of an applicant shall not constitute a bar to the review proceedings.

10. The findings and recommendations of the review panel shall be confined to the subject matter of the application and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the finding. Any member of the panel may attach a separate or dissenting opinion to the finding. The review panel shall not, however, substitute its decision for that of the Commission. The panel shall communicate its findings and recommendations, including its reasons, to the applicant or applicants and the Executive Director within 30 days of the end of the hearing. The Executive Director shall circulate copies of the review panel's findings and recommendations and reasons therefore to all Contracting Parties of the Commission.

Annex III

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

1. In accordance with articles 21 and 22, coastal State Contracting Parties and Contracting Parties whose vessels fish for the straddling fishery resource in the adjacent Convention Area shall provide all relevant scientific, technical and statistical data with respect to such fisheries resources to the Commission for consideration by the Scientific Committee.
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 may include 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 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 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 and advice from the Scientific Committee and the relevant Sub-regional Management Committee and any relevant advice of the Compliance Committee, shall establish a total allowable catch or total allowable fishing effort for the fishery resource throughout its range and adopt appropriate measures to ensure that the total allowable catch or total allowable fishing effort is not exceeded.

**Annex IV
INTERIM ARRANGEMENTS****INTERIM MEASURES ADOPTED BY PARTICIPANTS IN NEGOTIATIONS TO
ESTABLISH SOUTH PACIFIC REGIONAL FISHERIES MANAGEMENT
ORGANISATION**

Participants in the negotiations to establish a South Pacific Regional Fisheries Management Organisation (SPRFMO) **are to** take the following interim measures in accordance with their laws and regulations, taking into account an ecosystem approach to fisheries management and the precautionary approach, for vessels flying their flag and fishing for non highly migratory fish species in the high seas of the South Pacific Ocean (the Area)¹ in order to achieve the sustainable management of fish stocks and the protection of vulnerable marine ecosystems of the Area.

These interim measures are voluntary and are not legally binding under international law.

Period of Application and Review

These interim measures are to be effective from 30 September 2007 and, unless specified otherwise, are to apply until the entry into force of the Agreement under negotiation to establish the SPRFMO and the adoption of conservation and management measures pursuant to that Agreement.

The Participants are to review these interim measures, as necessary, so that they may be revised at future meetings.

The interim Secretariat is requested to make these interim measures publicly available.

Pelagic fisheries

In respect of pelagic fisheries, Participants resolve:

1. To commit themselves to limit the total level of gross tonnage (GT) of vessels flying their flag fishing for pelagic stocks in 2008 and 2009 to the levels of total GT recorded in 2007 in the Area. Participants will communicate by 1 January 2008 to the interim Secretariat the total level of GT recorded in the Area in 2007 for those vessels flying their flag actively fishing in 2007. In notifying this information, Participants will verify the effective presence of their vessels in the Area in 2007 through VMS records, catch reports, port calls or other means. The interim Secretariat will have access to such information upon request.

¹ The area is under negotiation, but for the purposes of these interim measures it will be the high seas area south of the Equator, north of the CCAMLR Convention area, east of the SIOFA Convention Area and west of the areas of fisheries jurisdictions of South American States.

2. That taking into account the interests of coastal and fishing States with a catch history in the pelagic fisheries in the South Pacific, but not exercising their fisheries activities in 2007, these States may enter the fishery in the Area in 2008 and 2009 and will exercise voluntary restraint of fishing effort. These States will promptly notify the Interim Secretariat of the names and characteristics, including GT, of their vessels engaged in the fishery in the Area.
3. To submit for review to the interim Science Working Group any stock assessments and research in respect of pelagic stocks in the Area and to promote the active participation of their scientific experts in the Jack Mackerel Stock Structure Task Team, the Jack Mackerel Stock Structure and Assessment Workshop, and, when established, the interim Science Working Group's Jack Mackerel subgroup.
4. That in 2009, the interim Science Working Group will give advice to the Meeting of Participants on the status of the pelagic stocks and that the Participants, based on the advice from the interim Science Working Group, will determine the conservation and management measures to be applied from 2010 onwards.
5. To cooperate through coastal States adjacent to the Area informing the interim Secretariat of their own conservation and management measures in respect of straddling pelagic stocks.
6. In undertaking scientific research activities on pelagic stocks in the Area, including joint research, for assessment purposes, to do so in accordance with a research plan that has been provided to the interim Secretariat for forwarding to the interim Science Working Group and all Participants, preferably 60 days prior to the commencement of that activity. Participants will provide promptly a report of the results of such scientific research activities to the interim Secretariat for circulation to all Participants.
7. To ensure, to the extent practicable, an appropriate level of observer coverage on fishing vessels flying their flag in order to observe the pelagic fisheries in the Area and collect relevant scientific information.
8. To strengthen its control over vessels flying its flag fishing for pelagic fisheries by ensuring that all such vessels operating in the Area be equipped with an operational vessel monitoring system no later than 31 December 2007, or earlier if so decided by the flag State.
9. That these interim measures do not apply to squid fisheries in the Area.

Bottom fisheries*Management of bottom fishing*

In respect of bottom fisheries, Participants resolve to:

1. Limit bottom fishing effort or catch in the Area to existing levels² in terms of the number of fishing vessels and other parameters that reflect the level of catch, fishing effort, and fishing capacity.
2. Not expand bottom fishing activities into new regions of the Area where such fishing is not currently occurring.
3. Starting in 2010, before opening new regions of the Area or expanding fishing effort or catch beyond existing levels, establish conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems³ and the long-term sustainability of deep sea fish stocks from individual bottom fishing activities or determine that such activities will not have adverse impacts, based on an assessment undertaken in accordance with paragraphs 11 and 12 below.
4. Cooperate through coastal States adjacent to the Area informing the interim Secretariat of their own conservation and management measures in respect of deep sea fish stocks.
5. Cooperate to identify, on the basis of the best available scientific information, vulnerable marine ecosystems in the Area and to map sites where these ecosystems are located, and provide such data and information to the Interim Secretariat for circulation to all Participants.
6. In respect of areas where vulnerable marine ecosystems are known to occur or are likely to occur based on the best available scientific information, close such areas to bottom fishing unless, based on an assessment undertaken in accordance with paragraphs 11 and 12 below, conservation and management measures have been established to prevent significant adverse impacts on vulnerable marine ecosystems and the long-term sustainability of deep sea fish stocks or it has been determined that such bottom fishing will not have significant adverse impacts on vulnerable marine ecosystems or the long term sustainability of deep sea fish stocks.
7. Require that vessels flying their flag cease bottom fishing activities within five (5) nautical miles of any site in the Area where, in the course of fishing operations, evidence of vulnerable marine ecosystems is encountered, and report the encounter, including the location, and the type of ecosystem in

² Existing levels of fishing effort or catch means the average annual levels over the period 1 January 2002 to 31 December 2006.

³ For the purposes of these interim measures, "vulnerable marine ecosystems" includes seamounts, hydrothermal vents, cold water corals and sponge fields.

question, to the interim Secretariat so that appropriate measures can be adopted in respect of the relevant site. Such sites will then be treated in accordance with paragraph 6 above.

8. Notwithstanding paragraph 2, in regions of the Area where bottom fishing is not currently occurring, undertake, as appropriate, scientific research activities for stock assessment purposes in identified parts of such regions and only in accordance with a research plan that has been provided to the interim Secretariat for forwarding to the interim Science Working Group and all Participants, preferably 60 days prior to the commencement of that activity. Participants will provide promptly a report of the results of such scientific research activities to the interim Secretariat for circulation to all Participants.
9. Appoint observers to each vessel flying their flag and undertaking or proposing to undertake bottom trawling activities in the Area and ensure an appropriate level of observer coverage on vessels flying their flag and undertaking other bottom fishing activities in the Area.
10. To strengthen its control over bottom fishing vessels flying its flag, each participant will ensure that all such vessels operating in the Area be equipped with an operational vessel monitoring system no later than 31 December 2007, or earlier if so decided by the flag State.

Assessment of bottom fishing

Participants resolve to:

11. Assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorized to proceed.
12. Apply the following procedures regarding the assessment described in paragraph 11 above:
 - a) Participants are to submit to the interim Science Working Group their assessments of whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, including the proposed management measures to prevent such impacts, and make these assessments publicly available.
 - b) The interim Scientific Working Group will review the assessments and proposed management measures and provide comments to the submitting Participant. For the purposes of carrying out such reviews, the interim Scientific Working Group will design a preliminary interim standard for reviewing the assessments and develop a process to ensure comments are provided to the submitting Participant and all

other Participants within two months. In the meantime, the submitting Participant may provisionally apply their proposed management measures.

- c) Participants may, on the basis of the assessments submitted under sub-paragraph (a) above and the comments provided under sub-paragraph (b) above, authorize vessels flying their flag to undertake bottom fishing activities in the region of the Area for which the assessment was conducted and require such vessels to implement conservation and management measures to prevent significant adverse impacts.
 - d) Participants are to notify the interim Secretariat of the measures required under sub-paragraph (c) above and a list of the vessels to which the measures relate, and to make that information publicly available.
13. In undertaking the assessments as described in paragraphs 11 and 12 above, take into account any international technical guidelines regarding standards, criteria or specifications for identifying vulnerable marine ecosystems and the impacts of fishing activities on such ecosystems that may have been developed.

Data collection and sharing

In respect of data collection and sharing, Participants resolve:

To collect, verify and provide data in accordance with the procedures outlined in the SPRFMO Standards for the collection, reporting, verification and exchange of data.

Cooperation with other States

Participants resolve, individually or jointly, to request those States that are fishing for non-highly migratory fish species in the Area but not participating in the negotiations to establish a South Pacific Regional Fisheries Management Organisation (SPRFMO) to cooperate fully in the implementation of these interim measures and to consider participating in the SPRFMO negotiations.

Special Requirements of Developing States

In recognition of the special requirements of developing States, in particular small island developing States and territories, Participants are urged to provide financial, scientific and technical assistance, where available, to enhance the ability of those developing States to implement these interim measures and participate effectively in the negotiations for the SPRFMO Agreement under discussion.