COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.4.2004
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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Community of the Convention for the strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Inter-American Tropical Tuna Commission (IATTC) is a Regional Fisheries Organisation that has been given competence by its Contracting Parties to regulate fisheries in the Eastern Pacific Ocean (EPO) for highly migratory fish stocks. This RFO was established by the 1949 Convention between the United States of America and the Republic of Costa Rica (hereafter "the 1949 Convention"). Today, the IATTC membership comprises 13 coastal and fishing States with interests in the region: Costa Rica, Ecuador, El Salvador, France on behalf of its overseas territories of Clipperton and French Polynesia, Guatemala, Japan, Mexico, Nicaragua, Panama, Peru, United States, Vanuatu and Venezuela.

The Community has been operating in the EPO tuna fisheries for many years. Presently, the EC tuna fishing fleet operating in the EPO counts 5 purse seiners targeting in particular skipjack tuna and its catches amounted to 31,000 Metric Tonnes in 2002. Its presence in the region entitles it to co-operate with other interested coastal and fishing States, Entities and Organisations towards the conservation and management of the highly migratory fish stocks placed under IATTC Competence.

As such, the Community became a member of the Agreement on the International Dolphin Conservation Program (AIDCP). The Agreement seeks the effective conservation of dolphin stocks affected by tuna fisheries in the EPO and its operation has been entrusted to the Secretariat of the IATTC. In 1999, the Community signed the AIDCP (Council Decision 1999/337/EC of 26 April 1999) and subsequently decided to apply it provisionally (Council Decision 1999/386/EC of 7 June 1999).

Contrary to the AIDCP provisions, the 1949 Convention rules on accession of new members are limited to States and therefore prevent the accession of the Community to IATTC under its present terms. In light of the Community's established interest in the fisheries subject to IATTC competence, a process for the amendment of the 1949 Convention was launched with the adoption in 1999 of the Guayaquil Protocol, whereby the 1949 Convention is modified so that Regional Economic Integration Organisations such as the Community may become members of this RFO. However, the entry into force of this Protocol was expected to be, and is indeed proved, to be long and laborious. Today, the Protocol has been signed by just 8 IATTC members, and ratified by only four among these. It will only enter into force once all IATTC Parties have ratified it.

In light of the lengthiness of this process, the Community agreed to allow Spain, the only Member State whose vessels operate in the Area, to become a Member of IATTC under the present terms of the 1949 Convention. Council Decision 1999/405/EC authorises Spain's accession on a temporary basis and on account of "unique circumstances" without creating any precedent, or affecting the Community's exclusive competence in fisheries matters. Even under this exceptional regime, it has taken until 2003 for Spain to receive the 'nihil obstat' from all other Members to accede IATTC and internal formalities are still being completed for this accession to become effective.

It may be argued that the discussions that ended with the adoption of the Guayaquil Protocol, also led the Contracting Parties of the IATTC to recognise the need to bring the statute of the Organisation up to date with recent developments in the international Law of the Sea: the United Nations Convention on the Law of the Sea of 1982, its implementing Agreements, and the Code of Conduct for Responsible Fisheries (adopted by the Conference of the Food and Agriculture Organization in 1995, including the Agreement to Promote Compliance with

International Conservation and Management Measures by Fishing Vessels on the High Seas of 1993). As a result, IATTC adopted a Resolution in 1998 launching the process of drafting the text of a new IATTC Convention to replace that of 1949. After 10 meetings of the working Group created to this effect, a new Convention text was ready for adoption by IATTC, which did so at its 70th Meeting held in Antigua, Guatemala, in June 2003. The new Convention is thus known as "the Antigua Convention". It will enter into force 15 months after the deposit of the 7th instrument of ratification by a current Contracting Party to IATTC.

The Antigua Convention was opened for signature on 14 November 2003 in Washington DC, United States of America (the Depositary), and will remain so until 31 December 2004. Its text is authentic in 3 languages: English, Spanish and French.

The Community was invited since the beginning to participate in the drafting of the Antigua Convention and has actively contributed to the process. In particular, the Community sought to ensure that the new Convention text would contain the necessary provisions so that the IATTC would become an open Organisation, allowing any party with a real interest to become a Member, in accordance with Article 8 of the the 1995 UN Fish Stocks Agreement. This objective was attained. The Antigua Convention is a comprehensive text that effectively strengthens the IATTC and ensures that it will exercise its responsibilities towards the effective conservation and management of the EPO highly migratory fish stocks according to the principles and standards set out in the Law of the Sea.

Spain's forthcoming accession to IATTC does not affect the Community's rights under international law to sign the Antigua Convention, since Council Decision 1999/405/EC only applies to the 1949 Convention. According to the Decision, Spain is required to denounce the 1949 Convention on the date of the Community's accession thereto. If the Antigua Convention enters into force before the Community is able to accede to the 1949 Convention (which is most likely), Spain will be required to withdraw from IATTC at that time. Relevant provisions to this end will be included in the Council Decision whereby the EC concludes the Antigua Convention. These provisions are not required presently, since Spain is not authorised to sign the Antigua Convention in any event.

The Community should therefore sign the Antigua Convention and proceed subsequently to its conclusion in order to become a full member of IATTC, without prejudice to the possibility of its earlier accession under the 1949 Convention in case the Guayaquil Protocol enters into force before the Antigua Convention does. The Council is therefore invited to adopt the attached decision.

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Community of the Convention for the strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) The Community has exclusive competence to adopt measures for the conservation and management of fishery resources and to enter into agreements with other countries and international organisations.

(2) The Community is a Contracting Party to the United Nations Convention on the Law of the Sea, which requires all members of the international community to cooperate in conserving and managing the sea's biological resources.

(3) The Community has signed and ratified on 19 December 2003 the Agreement on 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[2].

(4) The Inter-American Tropical Tuna Commission (IATTC) was established by the Convention between the United States of America and the Republic of Costa Rica, concluded in 1949. During its 61st Meeting in June 1998, IATTC adopted a Resolution whereby Contracting Parties agreed to draw a new Convention to strengthen the Commission and bring its statute up to date, in line with the provisions of the international Law of the Sea.

(5) The Community was invited to fully participate in this process since the beginning, and has played an active role therein. The process culminated in the adoption of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica (the Antigua Convention), at the 70th Meeting of the IATTC, held from 24 to 27 June 2003 in Antigua, Guatemala.

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1 OJ C , , p. .

2 OJ L 189, 3.7.1998, p. 16.

(6) The Antigua Convention was open for signature on 14 November 2003 in Washington DC, United States of America, and will remain so until 31 December 2004, in accordance with Article XXVII thereof.

(7) The Antigua Convention is open for signature by the Community in accordance with Article XXVII (1) (c) thereof.

(8) Community fishermen operate in the Convention Area. It is thus in the Community's interest to become a member of the Inter-American Tropical Tuna Commission. The Community should therefore sign the Antigua Convention,

HAS DECIDED AS FOLLOWS:

Article 1

The signature of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica is hereby approved on behalf of the European Community, subject to the Council Decision concerning the conclusion of the said Convention..

The text of the Convention is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Convention on behalf of the Community, subject to its conclusion.

Done at Brussels,

For the Council
The President

ANNEX

INTER-AMERICAN TROPICAL TUNA COMMISSION

TEXT ADOPTED AT THE 70TH MEETING

27 JUNE 2003

CONVENTION FOR THE STRENGTHENING OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION ESTABLISHED BY THE 1949 CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF COSTA RICA ("ANTIGUA CONVENTION")

The Parties to this Convention:

Aware that, in accordance with the relevant provisions of international law, as reflected in the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, all States have the duty to take such measures as may be necessary for the conservation and management of living marine resources, including highly migratory species, and to cooperate with other States in taking such measures;

Recalling 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 as provided for in UNCLOS, and the right of all States for their nationals to engage in fishing on the high seas in accordance with UNCLOS;

Reaffirming their commitment to the Rio Declaration on Environment and Development and Agenda 21, particularly Chapter 17, adopted by the United Nations Conference on Environment and Development (1992), and to the Johannesburg Declaration and Plan of Implementation adopted by the World Summit on Sustainable Development (2002);

Stressing the need to implement the principles and standards of the Code of Conduct for Responsible Fisheries adopted by the Conference of the Food and Agriculture Organization of the United Nations (FAO) in 1995, including the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, which forms an integral part of the Code, as well as the International Plans of Action adopted by FAO within the framework of the Code of Conduct;

Taking note that the 50th General Assembly of the United Nations, pursuant to resolution A/RES/50/24, adopted 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 Stocks and Highly Migratory Fish Stocks ("the 1995 UN Fish Stocks Agreement");

Considering the importance of fishing for highly migratory fish stocks as a source of food, employment and economic benefits for the populations of the Parties and that conservation and management measures must address those needs and take into account the economic and social impacts of those measures;

Taking into account the special circumstances and requirements of the developing countries of the region, particularly the coastal countries, in order to achieve the objective of the Convention;

Recognizing the significant efforts and the outstanding achievements of the Inter-American Tropical Tuna Commission, as well as the importance of its work in the tuna fisheries in the Eastern Pacific Ocean;

Desirous to benefit from the experiences derived from the implementation of the 1949 Convention;

Reaffirming that multilateral cooperation constitutes the most effective means for achieving the objectives of conservation and sustainable use of living marine resources;

Committed to ensuring the long-term conservation and the sustainable use of fish stocks covered by this Convention;

Convinced that the aforementioned objectives and the strengthening of the Inter-American Tropical Tuna Commission can best be achieved through bringing up to date the provisions of the 1949 Convention between the United States of America and the Republic of Costa Rica for the establishment of an Inter-American Tropical Tuna Commission;

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE I. DEFINITIONS

For the purposes of this Convention:

1. "Fish stocks covered by this Convention" means stocks of tunas and tuna-like species and other species of fish taken by vessels fishing for tunas and tuna-like species in the Convention Area;

2. "Fishing" means:
   (a) the actual or attempted searching for, catching, or harvesting of the fish stocks covered by this Convention;
   (b) engaging in any activity which can reasonably be expected to result in the locating, catching, harvesting of these stocks;
   (c) placing, searching for or recovering any fish-aggregating device or associated equipment, including radio beacons;
   (d) any operation at sea in support of, or in preparation for, any activity described in sub-paragraphs (a), (b) and (c) of this paragraph, except for any operation in emergencies involving the health and safety of crew members or the safety of a vessel;
   (e) the use of any other vehicle, air- or sea-borne, 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;

3. "Vessel" means any vessel used or intended for use for the purpose of fishing, including support vessels, carrier vessels and any other vessels directly involved in such fishing operations;

4. "Flag State" means, unless otherwise indicated:
   (a) a State whose vessels are entitled to fly its flag, or
   (b) a regional economic integration organization in which vessels are entitled to fly the flag of a member State of that regional economic integration organization;

5. "Consensus" means the adoption of a decision without voting and without the expression of any stated objection;

6. "Parties" means the States and regional economic integration organizations which have consented to be bound by this Convention and for which this Convention is in force, in accordance with the

provisions of Articles XXVII, XXIX, and XXX of this Convention;

7. "Members of the Commission" means the Parties and any fishing entity which has expressed in accordance with the provisions of Article XXVIII of this Convention its formal commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant thereto;

8. "Regional economic integration organization" means a regional economic integration organization 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;

9. "1949 Convention" means the Convention between the United States of America and the Republic of Costa Rica for the establishment of an Inter-American Tropical Tuna Commission;

10. "Commission" means the Inter-American Tropical Tuna Commission;

11. "UNCLOS" means the United Nations Convention on the Law of the Sea of 10 December 1982;

12. "1995 UN Fish Stocks 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, 1995;

13. "Code of Conduct" means the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organization of the United Nations in October 1995;

14. "AIDCP" means the Agreement on the International Dolphin Conservation Program of 21 May 1998.

ARTICLE II. OBJECTIVE

The objective of this Convention is to ensure the long-term conservation and sustainable use of the fish stocks covered by this Convention, in accordance with the relevant rules of international law.

ARTICLE III. AREA OF APPLICATION OF THE CONVENTION

The area of application of the Convention ("the Convention Area") comprises the area of the Pacific Ocean bounded by the coastline of North, Central, and South America and by the following lines:

- the 50°N parallel from the coast of North America to its intersection with the 150°W meridian;
- the 150°W meridian to its intersection with the 50°S parallel; and
- the 50°S parallel to its intersection with the coast of South America.

PART II

CONSERVATION AND USE OF THE FISH STOCKS COVERED BY THE CONVENTION

ARTICLE IV. APPLICATION OF THE PRECAUTIONARY APPROACH

1. The members of the Commission, directly and through the Commission, shall apply the precautionary approach, as described in the relevant provisions of the Code of Conduct and/or the 1995 UN Fish Stocks Agreement, for the conservation, management and sustainable use of fish stocks covered by this Convention.

2. In particular, the members of the Commission shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. Where the status of target stocks or non-target or associated or dependent species is of concern, the members of the Commission shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new scientific information available.

ARTICLE V. COMPATIBILITY OF CONSERVATION AND MANAGEMENT MEASURES

1. Nothing in this Convention shall prejudice or undermine the sovereignty or sovereign rights of coastal States related to the exploration and exploitation, conservation and management of the living marine resources within areas under their sovereignty or national jurisdiction as provided for in UNCLOS, or the right of all States for their nationals to engage in fishing on the high seas in accordance with

UNCLOS.

2. The conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible, in order to ensure the conservation and management of the fish stocks covered by this Convention.

PART III

THE INTER-AMERICAN TROPICAL TUNA COMMISSION

ARTICLE VI. THE COMMISSION

1. The members of the Commission agree to maintain, with all its assets and liabilities, and to strengthen the Inter-American Tropical Tuna Commission established by the 1949 Convention.

2. The Commission shall be composed of sections consisting of from one (1) to four (4) Commissioners appointed by each member, who may be accompanied by such experts and advisers as that member may deem advisable.

3. The Commission shall have legal personality and shall enjoy, in its relations with other international organizations and with its members, such legal capacity as may be necessary to perform its functions and achieve its objective, in accordance with international law. The immunities and privileges which the Commission and its officers shall enjoy shall be subject to an agreement between the Commission and the relevant member.

4. The headquarters of the Commission shall remain at San Diego, California, United States of America.

ARTICLE VII. FUNCTIONS OF THE COMMISSION

1. The Commission shall perform the following functions, giving priority to tunas and tuna-like species:

(a) promote, carry out and coordinate scientific research concerning the abundance, biology and biometry in the Convention Area of fish stocks covered by this Convention and, as necessary, of associated or dependent species, and the effects of natural factors and human activities on the populations of these stocks and species;

(b) adopt standards for collection, verification, and timely exchange and reporting of data concerning the fisheries for fish stocks covered by this Convention;

(c) adopt measures that are based on the best scientific evidence available to ensure the long-term conservation and sustainable use of the fish stocks covered by this Convention and to maintain or restore the populations of harvested species at levels of abundance which can produce the maximum sustainable yield, *inter alia*, through the setting of the total allowable catch of such fish stocks as the Commission may decide and/or the total allowable level of fishing capacity and/or level of fishing effort for the Convention Area as a whole;

(d) determine whether, according to the best scientific information available, a specific fish stock covered by this Convention is fully fished or overfished and, on this basis, whether an increase in fishing capacity and/or the level of fishing effort would threaten the conservation of that stock;

(e) in relation to the stocks referred to in subparagraph (d) of this paragraph, determine, on the basis of criteria that the Commission may adopt or apply, the extent to which the fishing interests of new members of the Commission might be accommodated, taking into account relevant international standards and practices;

(f) adopt, as necessary, conservation and management measures and recommendations for species belonging to the same ecosystem and that are affected by fishing for, or dependent on or associated with, the fish stocks covered by this Convention, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(g) adopt appropriate measures to avoid, reduce and minimize waste, discards, catch by lost or discarded gear, catch of non-target species (both fish and non-fish species) and impacts on associated or dependent species, in particular endangered species;

(h) adopt appropriate measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of the fish stocks covered by this Convention;

(i) establish a comprehensive program for data collection and monitoring which shall include such

elements as the Commission determines necessary. Each member of the Commission may also maintain its own program consistent with guidelines adopted by the Commission;

(j) ensure that, in developing measures to be adopted under subparagraphs (a) to (i) of this paragraph, due consideration is given to the need for coordination and compatibility with measures adopted pursuant to the AIDCP;

(k) promote, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques and such other related activities, including activities connected with, *inter alia*, transfer of technology and training;

(l) where necessary, develop criteria for, and make decisions relating to, the allocation of total allowable catch, or total allowable fishing capacity, including carrying capacity, or the level of fishing effort, taking into account all relevant factors;

(m) apply the precautionary approach in accordance with the provisions of Article IV of this Convention. In cases where measures are adopted by the Commission pursuant to the precautionary approach in the absence of adequate scientific information, as set out in Article IV, paragraph 2 of this Convention, the Commission shall, as soon as possible, undertake to obtain the scientific information necessary to maintain or modify any such measures;

(n) promote the application of any relevant provision of the Code of Conduct and of other relevant international instruments including, *inter alia*, the International Plans of Action adopted by FAO in the framework of the Code of Conduct;

(o) appoint the Director of the Commission;

(p) approve its program of work;

(q) approve its budget, in accordance with provisions of Article XIV of this Convention;

(r) approve the accounts for the past budgetary period;

(s) adopt or amend its own rules and procedures, financial regulations and other internal administrative regulations as may be necessary to carry out its functions;

(t) provide the Secretariat for the AIDCP, taking into account the provisions of Article XIV, paragraph 3 of this Convention;

(u) establish such subsidiary bodies as it considers necessary;

(v) adopt any other measure or recommendation, based on relevant information, including the best scientific information available, as may be necessary to achieve the objective of this Convention, including non-discriminatory and transparent measures consistent with international law, to prevent, deter and eliminate activities that undermine the effectiveness of the conservation and management measures adopted by the Commission.

2. The Commission shall maintain a staff qualified in matters pertaining to this Convention, including administrative, scientific and technical areas, under the supervision of the Director, and ensure that it shall include all personnel needed for the efficient and effective application of this Convention. The Commission should seek the most qualified staff available, and give due consideration to the importance of recruiting staff on an equitable basis to promote broad representation and participation of the members of the Commission.

3. In considering guidance for the program of work on scientific matters to be addressed by the scientific staff, the Commission shall consider, *inter alia*, the advice, recommendations, and reports of the Scientific Advisory Committee established pursuant to Article XI of this Convention.

ARTICLE VIII. MEETINGS OF THE COMMISSION

1. The ordinary meetings of the Commission shall take place at least once a year, in such location and on such date as the Commission agrees.

2. The Commission may also hold extraordinary meetings when deemed necessary. These meetings shall be convened at the request of at least two of the members of the Commission, provided that a majority of the members support the request.

3. The meetings of the Commission shall be held only when a quorum is present. Quorum is reached when two-thirds of the members of the Commission are present. This rule shall also apply to meetings of subsidiary bodies established under this Convention.

4. The meetings shall be held in English and Spanish, and the documents of the Commission shall be produced in both these languages.

5. Members shall elect a Chairman and Vice-Chairman from, unless otherwise decided, different Parties to this Convention. Both officials shall be elected for a period of one (1) year and shall remain in office until their successors are elected.

ARTICLE IX. DECISION MAKING

1. Unless provided otherwise, all decisions made by the Commission at meetings convened pursuant to Article VIII of this Convention shall be by consensus of members of the Commission present at the meeting in question.

2. Decisions on adoption of amendments to this Convention and its annexes, as well as invitations to accede to the Convention pursuant to Article XXX, paragraph (c) of this Convention, shall require consensus of all Parties. In such cases, the Chairman of the meeting shall ensure that all members of the Commission have the opportunity to express their views on the proposed decisions, which the Parties shall take into account in reaching the final decision.

3. The consensus of all the members of the Commission shall be required for decisions on:

(a) the adoption and amendment of the Commission's budget, and those that determine the form and proportion of the contributions of the members;

(b) the issues referred to in Article VII, subparagraph (l) of paragraph 1 of this Convention.

4. With respect to decisions referred to in paragraphs 2 and 3 of this Article, if a Party or member of the Commission, as the case may be, is absent from the meeting in question and has not sent a notification in accordance with paragraph 6 of this Article, the Director shall notify such Party or member of the decision taken at the meeting. If, within thirty (30) days of the receipt by the Party or member of such notification, the Director has not received a response from such Party or member, that Party or member shall be deemed to have joined the consensus on the decision in question. If, within such 30-day period, such Party or member replies in writing that it cannot join the consensus on the decision in question, the decision shall have no effect, and the Commission shall seek to reach consensus at the earliest opportunity.

5. When a Party or member of the Commission that was not present at a meeting notifies the Director, in accordance with paragraph 4 of this Article, that it cannot join the consensus on a decision taken at that meeting, that member shall not be able to oppose consensus on the same issue if it is not present at the next meeting of the Commission at which that issue is on the agenda.

6. If a member of the Commission is not able to attend a meeting of the Commission due to extraordinary and unforeseen circumstances outside its control:

(a) It shall so notify the Director, in writing, prior to the start of the meeting if possible or otherwise at the earliest possible opportunity. Such notification shall be effective upon acknowledgement of its receipt by the Director to the member concerned; and

(b) Subsequently and as soon as possible, the Director shall notify the member of all the decisions taken at that meeting in accordance with paragraph 1 of this Article;

(c) within thirty (30) days of the notice referred to in subparagraph (b) of this paragraph, the member may notify the Director in writing that it cannot join the consensus on one or more of these decisions. In such cases, the relevant decision or decisions shall have no effect, and the Commission shall seek to reach consensus at the earliest opportunity.

7. The decisions adopted by the Commission pursuant to this Convention shall be binding for all members forty-five (45) days after their notification, unless otherwise specified in this Convention or agreed when a decision is taken.

ARTICLE X. COMMITTEE FOR THE REVIEW OF IMPLEMENTATION OF MEASURES ADOPTED BY THE COMMISSION

1. The Commission shall establish a Committee for the Review of Implementation of Measures Adopted by the Commission, which shall be composed of those representatives designated for this purpose by each member of the Commission, who may be accompanied by such experts and advisers as that member may deem advisable.

2. The functions of the Committee shall be those established in Annex 3 of this Convention.

3. In the exercise of its functions, the Committee may, where appropriate, and with the approval of the Commission, consult any other fisheries management, technical or scientific organization with competence in the subject matter of such consultation and may seek such expert advice as may be required in each case.

4. The Committee shall strive to adopt its reports and recommendations by consensus. If every effort to achieve consensus has failed, the reports shall so indicate, and shall reflect the majority and minority views. At the request of any member of the Committee, the views of that member on all or any part of the reports shall also be reflected.

5. The Committee shall meet at least once a year, preferably on the occasion of the ordinary meeting of the Commission.

6. The Committee may convene additional meetings at the request of at least two (2) of the members of the Commission, provided that a majority of the members support the request.

7. The Committee shall exercise its functions in accordance with such rules of procedure, guidelines and directives as the Commission may adopt.

8. In support of the work of the Committee, the staff of the Commission shall:

(a) collect the information necessary for the work of the Committee and develop a data base, in accordance with the procedures established by the Commission;

(b) provide such statistical analyses as the Committee deems necessary for carrying out its functions;

(c) prepare the reports of the Committee;

(d) distribute to the members of the Committee all pertinent information, particularly that set out in subparagraph (a) of paragraph 8 of this Article.

ARTICLE XI. SCIENTIFIC ADVISORY COMMITTEE

1. The Commission shall establish a Scientific Advisory Committee, which shall be composed of a representative designated by each member of the Commission, who shall have appropriate qualifications or relevant experience in the area of competence of the Committee, and who may be accompanied by such experts or advisers as that member may deem advisable.

2. The Commission may invite to participate in the work of the Committee organizations or persons with recognized scientific experience in matters related to the work of the Commission.

3. The functions of the Committee shall be those established in Annex 4 of this Convention.

4. The Committee shall meet at least once a year, preferably prior to a meeting of the Commission.

5. The Committee may convene additional meetings at the request of at least two (2) of the members of the Commission, provided that a majority of the members support the request.

6. The Director shall serve as Chairman of the Committee or may delegate the exercise of this function subject to the approval of the Commission.

7. The Committee shall strive to adopt its reports and recommendations by consensus. If every effort to achieve consensus has failed, the reports shall so indicate, and shall reflect the majority and minority views. At the request of any member of the Committee, the views of that member on all or any part of the reports shall also be reflected.

ARTICLE XII. ADMINISTRATION

1. The Commission shall appoint, in accordance with the adopted rules of procedure and taking into account any criteria established therein, a Director, whose competence in the field of this Convention is established and generally recognized, in particular in its scientific, technical and administrative aspects, and who shall be responsible to the Commission and may be removed by the Commission at its discretion. The term of the Director shall be of 4 years, and he may be reappointed as many times as the Commission decides.

2. The functions of the Director shall be:

(a) preparing research plans and programs for the Commission;

(b) preparing budget estimates for the Commission;

(c) authorizing the disbursement of funds for the implementation of the approved program of work and budget by the Commission and accounting for the funds thus employed;

(d) appointing, removing and directing the administrative, scientific, technical and other staff, required for the functions of the Commission, in accordance with the rules of procedure adopted by the Commission;

(e) where appropriate for the efficient functioning of the Commission, appointing a Coordinator of Scientific Research, in accordance with subparagraph (d) of paragraph 2 of this Article, who shall operate under the supervision of the Director, who shall assign to the Coordinator of Scientific Research such functions and responsibilities as the Director determines appropriate;

(f) arranging for cooperation with other organizations or individuals, as appropriate, when needed for the performance of the functions of the Commission;

(g) coordinating the work of the Commission with that of organizations and individuals whose cooperation the Director has arranged;

(h) drafting administrative, scientific and other reports for the Commission;

(i) preparing draft agendas for and convening the meetings of the Commission and its subsidiary bodies, in consultation with the members of the Commission and taking into account their proposals, and providing administrative and technical support for such meetings;

(j) ensuring the publication and dissemination of the conservation and management measures which have been adopted by the Commission and are in force and, as far as practicable, the maintenance and dissemination of records of other applicable conservation and management measures adopted by the members of the Commission in force in the Convention Area;

(k) ensuring the maintenance of a record, based, *inter alia*, on the information provided to the Commission pursuant to Annex 1 of this Convention, of vessels fishing in the Convention Area, as well as the periodic circulation of the information contained in such record to all members of the Commission, and, on request, to any member individually;

(l) acting as the legal representative of the Commission;

(m) performing such other functions as are necessary to ensure the efficient and effective operation of the Commission and others that may be assigned to him by the Commission.

3. In fulfilling their functions, the Director and the staff of the Commission shall not act in any manner that could be incompatible with their status or with the objective and provisions of this Convention, nor shall they have any financial interests in activities such as investigation and research, exploration, exploitation, processing and marketing of the fish stocks covered by this Convention. Likewise, they shall also maintain as confidential, while they are employed by the Commission and thereafter, any confidential information they obtained or to which they had access during their employment.

ARTICLE XIII. SCIENTIFIC STAFF

The Scientific Staff shall operate under the supervision of the Director, and of the Coordinator of Scientific Research if appointed in accordance with Article XII, subparagraphs (d) and (e) of paragraph 2 of this Convention, and shall have the following functions, giving priority to tunas and tuna-like species:

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

(b) provide the Commission, through the Director, with scientific advice and recommendations in support of the formulation of conservation and management measures and other relevant matters, following consultations with the Scientific Advisory Committee, except in circumstances where evident time constraints would limit the ability of the Director to provide the Commission with such advice or recommendations on a timely basis;

(c) provide the Scientific Advisory Committee with the information necessary to carry out the functions specified in Annex 4 of this Convention;

(d) provide the Commission, through the Director, with recommendations for scientific research in support of the Commission's functions in accordance with Article VII, subparagraph (a) of paragraph 1, of this Convention;

(e) collect and analyze information relating to current and past conditions and trends of the populations

of the fish stocks covered by this Convention;

(f) provide the Commission, through the Director, with proposed standards for collection, verification, and timely exchange and reporting of data concerning the fisheries for fish stocks covered by this Convention;

(g) collect statistical data and all kinds of reports concerning catches of fish stocks covered by this Convention and the operations of vessels in the Convention Area, and any other relevant information concerning fisheries for such stocks, including, as appropriate, social and economic aspects;

(h) study and appraise information concerning methods and procedures for maintaining and increasing the fish stocks covered by this Convention;

(i) publish or otherwise disseminate reports on its findings and such other reports as fall within the scope of this Convention as well as scientific, statistical and other data relating to the fisheries for the fish stocks covered by this Convention, ensuring confidentiality in conformity with the provisions of Article XXII of this Convention;

(j) perform such other functions and tasks as may be assigned to it.

ARTICLE XIV. BUDGET

1. The Commission shall adopt each year its budget for the following year, in accordance with Article IX, paragraph 3 of this Convention. In determining the size of the budget, the Commission shall give due consideration to the principle of cost effectiveness.

2. The Director shall submit to the Commission for consideration a detailed draft annual budget that shall identify the disbursements to be made from contributions referred to in Article XV, paragraph 1, and those referred to in Article XV, paragraph 3, of this Convention.

3. The Commission shall maintain separate accounts for the activities carried out under this Convention and under the AIDCP. The services to be provided to the AIDCP and the corresponding estimated costs shall be specified in the Commission's budget. The Director shall provide to the Meeting of the Parties to the AIDCP for its approval, and prior to the year in which the services are to be provided, estimates of services and their costs corresponding to the tasks to be carried out pursuant to that Agreement.

4. The accounts of the Commission shall be subjected to an annual independent financial audit.

ARTICLE XV. CONTRIBUTIONS

1. The amount of the contribution of each member of the Commission to the budget shall be determined in accordance with the scheme which the Commission shall adopt, and amend, as required, in accordance with Article IX, paragraph 3, of this Convention. The scheme adopted by the Commission shall be transparent and equitable for all members and shall be set out in the financial regulations of the Commission.

2. The contributions agreed pursuant to the provisions of paragraph 1 of this Article shall enable the operation of the Commission and cover in a timely manner the annual budget adopted in accordance with Article XIV, paragraph 1, of this Convention.

3. The Commission shall establish a fund to receive voluntary contributions for research on and conservation of the fish stocks covered by this Convention and, as appropriate, associated or dependent species, and for the conservation of the marine environment.

4. Notwithstanding the provisions of Article IX of this Convention, unless the Commission decides otherwise, if a member of the Commission is in arrears in the payment of its contributions by an amount equal to or greater than the total of the contributions due from it for the preceding twenty-four (24) months, that member shall not have the right to participate in decision-making in the Commission until it has fulfilled its obligations pursuant to this Article.

5. Each member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of its subsidiary bodies.

ARTICLE XVI. TRANSPARENCY

1. The Commission shall promote transparency in the implementation of this Convention in its decision-making processes and other activities, *inter alia*, through:

   (a) the public dissemination of pertinent non-confidential information; and

(b) as appropriate, facilitating consultations with, and the effective participation of, non-governmental organizations, representatives of the fishing industry, particularly the fishing fleet, and other interested bodies and individuals.

2. Representatives of non-Parties, relevant intergovernmental organizations, and non-governmental organizations, including environmental organizations with recognized experience in matters pertaining to the Commission and the tuna industry of any of the members of the Commission operating in the Convention Area, particularly the tuna fishing fleet, shall be afforded the opportunity to take part in the meetings of the Commission and of its subsidiary organs, as observers or otherwise, as appropriate, in accordance with the principles and criteria established in Annex 2 of this Convention as well as others that the Commission may adopt. Such participants shall have timely access to relevant information, subject to the rules of procedure and of confidentiality on access to such information that the Commission may adopt.

PART IV

RIGHTS AND OBLIGATIONS OF MEMBERS OF THE COMMISSION

ARTICLE XVII. RIGHTS OF STATES

No provision of this Convention may be interpreted in such a way as to prejudice or undermine the sovereignty, sovereign rights, or jurisdiction exercised by any State in accordance with international law, as well as its position or views with regard to matters relating to the law of the sea.

ARTICLE XVIII. IMPLEMENTATION, COMPLIANCE AND ENFORCEMENT BY PARTIES

1. Each Party shall take the measures necessary to ensure the implementation of and compliance with this Convention and any conservation and management measures adopted pursuant thereto, including the adoption of the necessary laws and regulations.

2. Each Party shall provide to the Commission all the information that may be required for the fulfillment of the objective of this Convention, including statistical and biological information and information concerning its fishing activities in the Convention Area, and shall provide to the Commission information regarding actions taken to implement the measures adopted in accordance with this Convention, whenever required by the Commission and as appropriate, subject to the provisions of Article XXII of this Convention and in accordance with the rules of procedure to be developed and adopted by the Commission.

3. Each Party shall promptly, through the Director, inform the Committee for the Review of Implementation of Measures Adopted by the Commission established pursuant to the provisions of Article X of this Convention of:

   (a) legal and administrative provisions, including those regarding infractions and sanctions, applicable to compliance with conservation and management measures adopted by the Commission;

   (b) actions taken to ensure compliance with conservation and management measures adopted by the Commission, including, if appropriate, an analysis of individual cases and the final decision taken.

4. Each Party shall:

   (a) authorize the use and release, subject to any applicable rules of confidentiality, of pertinent information recorded by on-board observers of the Commission or a national program;

   (b) ensure that vessel owners and/or captains allow the Commission, in accordance with the rules of procedure adopted by the Commission in this respect, to collect and analyze information necessary for carrying out the functions of the Committee for the Review of Implementation of Measures Adopted by the Commission;

   (c) provide to the Commission every six months a report on the activities of its tuna-fishing vessels and any other information necessary for the work of the Committee for the Review of Implementation of Measures Adopted by the Commission.

5. Each Party shall take measures to ensure that vessels operating in waters under its national jurisdiction comply with this Convention and the measures adopted pursuant thereto.

6. Each Party, where it has reasonable grounds to believe that a vessel flying the flag of another State has engaged in any activity that undermines the effectiveness of conservation and management measures

adopted for the Convention Area, shall draw this to the attention of the flag State concerned and may, as appropriate, draw the matter to the attention of the Commission. The Party in question shall provide the flag State with full supporting evidence and may provide the Commission with a summary of such evidence. The Commission shall not circulate such information until such time as the flag State has had an opportunity to comment, within a reasonable time, on the allegation and evidence submitted for its consideration, or to object, as the case may be.

7. Each Party, at the request of the Commission or of any other Party, when provided with relevant information that a vessel under its jurisdiction has carried out activities which contravene the measures adopted pursuant to this Convention, shall carry out a thorough investigation, and if appropriate proceed in accordance with its national legislation and inform, as soon as possible, the Commission and, if applicable, the other Party, of the results of its investigations and the actions taken.

8. Each Party shall apply, in accordance with its national laws and in a manner consistent with international law, sanctions of sufficient gravity as to be effective in securing compliance with the provisions of this Convention and of measures adopted pursuant thereto and to deprive offenders of the benefits accruing from their illegal activities, including, as appropriate, refusal, suspension or withdrawal of the authorization to fish.

9. The Parties whose coasts border the Convention Area or whose vessels fish for fish stocks covered by this Convention or in whose territory the catch is landed and processed shall cooperate with a view to ensuring compliance with this Convention and with a view to ensuring the application of the conservation and management measures adopted by the Commission, including through the adoption of cooperative measures and schemes, as appropriate.

10. If the Commission determines that vessels fishing in the Convention Area have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures adopted by the Commission, the Parties may take action, following the recommendations adopted by the Commission and in accordance with this Convention and international law, to deter such vessels from such activities until such time as appropriate action is taken by the flag State to ensure that such vessels do not continue those activities.

ARTICLE XIX. IMPLEMENTATION, COMPLIANCE AND ENFORCEMENT BY FISHING ENTITIES

Article XVIII of this Convention applies, *mutatis mutandis*, to fishing entities that are members of the Commission.

ARTICLE XX. DUTIES OF FLAG STATES

1. Each Party shall, in accordance with international law, take such measures as may be necessary to ensure that vessels flying its flag comply with the provisions of this Convention and the conservation and management measures adopted pursuant thereto, and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. No Party shall allow any vessel entitled to fly its flag to be used for fishing for fish stocks covered by this Convention unless it has been authorized to do so by the appropriate authority or authorities of that Party. A Party shall authorize the use of 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.

3. In addition to its obligations under paragraphs 1 and 2 of this Article, each Party shall take such measures as may be necessary to ensure that vessels flying its flag do not fish in areas under the sovereignty or national jurisdiction of any other State in the Convention Area without the corresponding license, permit or authorization issued by the competent authorities of that State.

ARTICLE XXI. DUTIES OF FISHING ENTITIES

Article XX of this Convention applies, *mutatis mutandis*, to fishing entities that are members of the Commission.

PART V

CONFIDENTIALITY

ARTICLE XXII. CONFIDENTIALITY

1. The Commission shall establish rules of confidentiality for all bodies and individuals given access to information pursuant to this Convention.

2. Notwithstanding any confidentiality rules which may be adopted in accordance with paragraph 1 of this Article, any persons with access to such confidential information may disclose such information in connection with legal or administrative proceedings, if requested by the competent authority concerned.

PART VI

COOPERATION

ARTICLE XXIII. COOPERATION AND ASSISTANCE

1. The Commission shall seek to adopt measures relating to technical assistance, technology transfer, training and other forms of cooperation, to assist developing countries that are members of the Commission to fulfill their obligations under this Convention, as well as to enhance their ability to develop fisheries under their respective national jurisdictions and to participate in high seas fisheries on a sustainable basis.

2. The members of the Commission shall facilitate and promote such cooperation, especially financial and technical, and the transfer of technology, as may be necessary for the effective implementation of paragraph 1 of this Article.

ARTICLE XXIV. COOPERATION WITH OTHER ORGANIZATIONS OR ARRANGEMENTS

1. The Commission shall cooperate with subregional, regional, and global fishery organizations and arrangements and, as appropriate, shall establish relevant institutional arrangements such as consultative committees, in agreement with such organizations or arrangements, with the goal of promoting the achievement of the objective of this Convention, obtaining the best available scientific information, and avoiding duplication with respect to their work.

2. The Commission, in agreement with the relevant organizations or arrangements, shall adopt the rules of operation for the institutional arrangements established in accordance with paragraph 1 of this Article.

3. Where the Convention Area overlaps with an area under regulation by another fisheries management organization, the Commission shall cooperate with such other organization in order to ensure that the objective of this Convention is reached. To this end, through consultations or other arrangements, the Commission shall strive to agree with the other organization on the relevant measures to be taken, such as ensuring the harmonization and compatibility of the conservation and management measures adopted by the Commission and the other organization, or deciding that the Commission or the other organization, as appropriate, avoid taking measures in respect of species in that area which are regulated by the other.

4. The provisions of paragraph 3 of this Article shall be applied, as appropriate, to the case of fish stocks that migrate through areas under the purview of the Commission and of another organization or organizations or arrangements.

PART VII

SETTLEMENT OF DISPUTES

ARTICLE XXV. SETTLEMENT OF DISPUTES

1. The members of the Commission shall cooperate in order to prevent disputes. Any member may consult with one or more members about any dispute related to the interpretation or application of the provisions of this Convention to reach a solution satisfactory to all as quickly as possible.

2. If a dispute is not settled through such consultation within a reasonable period, the members in question shall consult among themselves as soon as possible in order to settle the dispute through any

peaceful means they may agree upon, in accordance with international law.

3. In cases when two or more members of the Commission agree that they have a dispute of a technical nature, and they are unable to resolve the dispute among themselves, they may refer the dispute, by mutual consent, to a non-binding *ad hoc* expert panel constituted within the framework of the Commission in accordance with the procedures adopted for this purpose by the Commission. The panel shall confer with the members concerned and shall endeavor to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

PART VIII

NON-MEMBERS

ARTICLE XXVI. NON-MEMBERS

1. The Commission and its members shall encourage all States and regional economic integration organizations referred to in Article XXVII of this Convention and, as appropriate, fishing entities referred to in Article XXVIII of this Convention that are not members of the Commission to become members or to adopt laws and regulations consistent with this Convention.

2. The members of the Commission shall exchange information among themselves, either directly or through the Commission, with respect to activities of vessels of non-members that undermine the effectiveness of this Convention.

3. The Commission and its members shall cooperate, consistent with this Convention and international law, to jointly deter vessels of non-members from carrying out activities that undermine the effectiveness of this Convention. To this end, the members shall, *inter alia*, call to the attention of non-members such activities by their vessels.

PART IX

FINAL PROVISIONS

ARTICLE XXVII. SIGNATURE

1. This Convention shall be open for signature at Washington from November 14, 2003, until December 31, 2004 by:

(a) the Parties to the 1949 Convention;

(b) States not Party to the 1949 Convention with a coastline bordering the Convention Area; and

(c) States and regional economic integration organizations which are not Parties to the 1949 Convention and whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention and that participated in the negotiation of this Convention; and

(d) other States which are not Parties to the 1949 Convention and whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention, following consultations with the Parties to the 1949 Convention.

2. In relation to the regional economic integration organizations referred to in paragraph 1 of this Article, no member State of such organizations may sign this Convention unless it represents a territory which lies outside the territorial scope of the treaty establishing the organization and provided that such member State's participation be limited to representing only the interests of that territory.

ARTICLE XXVIII. FISHING ENTITIES

1. Any fishing entity whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention may express its firm commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant thereto, by:

   a) signing, during the period referred to in Article XXVII, paragraph 1 of this Convention, an instrument drafted to this effect in accordance with a resolution to be adopted by the Commission under the 1949 Convention; and/or

   b) during or after the above-mentioned period, providing a written communication to the Depositary in accordance with a resolution to be adopted by the Commission under the 1949

Convention. The Depositary shall promptly provide a copy of this communication to all signatories and Parties.

2. The commitment expressed pursuant to paragraph 1 of this Article shall be effective from the date referred to in Article XXXI, paragraph 1, of this Convention, or on the date of the written communication referred to in paragraph 1 of this Article, whichever is later.

3. Any fishing entity referred to above may express its firm commitment to abide by the terms of this Convention as it may be amended pursuant to Article XXXIV or Article XXXV of this Convention by providing a written communication to this effect to the Depositary in accordance with the resolution referred to in paragraph 1 of this Article.

4. The commitment expressed pursuant to paragraph 3 of this Article shall be effective from the dates referred to in Article XXXIV, paragraph 3, and Article XXXV, paragraph 4, of this Convention, or on the date of the written communication referred to in paragraph 3 of this Article, whichever is later.

ARTICLE XXIX. RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention is subject to ratification, acceptance or approval by the signatories in accordance with their domestic laws and procedures.

ARTICLE XXX. ACCESSION

This Convention shall remain open to accession by any State or regional economic integration organization :

(a) that meets the requirements of Article XXVII of this Convention; or

(b) whose vessels fish for fish stocks covered by this Convention, following consultations with the Parties; or

(c) that is otherwise invited to accede on the basis of a decision by the Parties.

ARTICLE XXXI. ENTRY INTO FORCE

1. This Convention shall enter into force fifteen (15) months after the deposit with the Depositary of the seventh instrument of ratification, acceptance, approval, or accession of the Parties to the 1949 Convention that were Parties to that Convention on the date this Convention was opened for signature.

2. After the date of entry into force of this Convention, with respect to each State or regional economic integration organization that meets the requirements of Article XXVII or Article XXX, this Convention shall enter into force for said State or regional economic integration organization on the thirtieth (30^{th}) day following the deposit of its instrument of ratification, acceptance, approval, or accession.

3. Upon entry into force of this Convention, this Convention shall prevail, as between Parties to this Convention and the 1949 Convention, over the 1949 Convention.

4. Upon the entry into force of this Convention, conservation and management measures and other arrangements adopted by the Commission under the 1949 Convention shall remain in force until such time as they expire, are terminated by a decision of the Commission, or are replaced by other measures or arrangements adopted pursuant to this Convention.

5. Upon entry into force of this Convention, a Party to the 1949 Convention that has not yet consented to be bound by this Convention shall be deemed to remain a member of the Commission unless such Party elects not to remain a member of the Commission by so notifying the Depositary in writing prior to the entry into force of this Convention.

6. Upon entry into force of this Convention for all Parties to the 1949 Convention, the 1949 Convention shall be considered as terminated in accordance with the relevant rules of international law as reflected in Article 59 of the Vienna Convention on the Law of Treaties.

ARTICLE XXXII. PROVISIONAL APPLICATION

1. In accordance with its laws and regulations, a State or regional economic integration organization that meets the requirements of Article XXVII or Article XXX of this Convention may apply this Convention provisionally by so notifying the Depositary in writing. Such provisional application shall

commence on the later of the date of entry into force of this Convention and the date of receipt of such notification by the Depositary.

2. Provisional application of this Convention by a State or regional economic integration organization referred to in paragraph 1 of this Article shall terminate upon entry into force of this Convention for that State or regional economic integration organization, or upon notification to the Depositary by that State or regional economic integration organization of its intention to terminate its provisional application of this Convention.

ARTICLE XXXIII. RESERVATIONS

No reservations may be made to this Convention.

ARTICLE XXXIV. AMENDMENTS

1. Any member of the Commission may propose an amendment to the Convention by providing to the Director the text of a proposed amendment at least sixty (60) days in advance of a meeting of the Commission. The Director shall provide a copy of this text to all other members promptly.

2. Amendments to the Convention shall be adopted in accordance with Article IX, paragraph 2, of this Convention.

3. Amendments to this Convention shall enter into force ninety (90) days after all Parties to the Convention at the time the amendments were approved have deposited their instruments of ratification, acceptance, or approval of such amendments with the Depositary.

4. States or regional economic integration organizations that become Parties to this Convention after the entry into force of amendments to the Convention or its annexes shall be considered to be Party to the Convention as amended.

ARTICLE XXXV. ANNEXES

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

2. Any member of the Commission may propose an amendment to an Annex to the Convention by providing to the Director the text of a proposed amendment at least sixty (60) days in advance of a meeting of the Commission. The Director shall provide a copy of this text to all other members promptly.

3. Amendments to the Annexes shall be adopted in accordance with Article IX, paragraph 2, of this Convention.

4. Unless otherwise agreed, amendments to an Annex shall enter into force for all members of the Commission ninety (90) days after their adoption pursuant to paragraph 3 of this Article.

ARTICLE XXXVI. WITHDRAWAL

1. Any Party may withdraw at any time after twelve (12) months from the date on which this Convention entered into force with respect to that Party by giving written notice of withdrawal to the Depositary. The Depositary shall inform the other Parties of the withdrawal within thirty (30) days of receipt of such notice. The withdrawal shall become effective six (6) months after receipt of such notice by the Depositary.

2. This article applies, *mutatis mutandis*, to any fishing entity with respect to its commitment under Article XXVIII of this Convention.

ARTICLE XXXVII. DEPOSITARY

The original texts of this Convention shall be deposited with the Government of the United States of America, which shall send certified copies thereof to the signatories and the Parties thereto, and to the Secretary General of the United Nations for registration and publication, pursuant to Article 102 of the Charter of the United Nations.

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

DONE at Washington, on this 14th day of November, 2003, in English, Spanish and French, all three texts being equally authentic.

ANNEX 1. GUIDELINES AND CRITERIA FOR THE ESTABLISHMENT OF RECORDS OF VESSELS

1. In application of Article XII, subparagraph (k) of paragraph 2, of this Convention, each Party shall maintain a record of vessels entitled to fly its flag and authorized to fish in the Convention Area for fish stocks covered by this Convention, and shall ensure that the following information for all such vessels is entered in that record:
   (a) Name of vessel, registration number, previous names (if known) and port of registry;
   (b) A photograph of the vessel showing its registration number;
   (c) Name and address of owner or owners;
   (d) Name and address of operator(s) and/or manager(s) if any;
   (e) Previous flag (if known and if any);
   (f) International Radio Call Sign (if any);
   (g) Where and when built;
   (h) Type of vessel;
   (i) Type of fishing methods;
   (j) Length, beam and moulded depth;
   (k) Gross tonnage;
   (l) Power of main engine or engines;
   (m) The nature of the authorization to fish granted by the flag State;
   (n) Freezer type, freezer capacity, and number and capacity of fish holds.

2. The Commission may decide to exempt vessels from the requirements of paragraph 1 of this Annex on the basis of their length or other characteristic.

3. Each Party shall provide to the Director, in accordance with the procedures established by the Commission, the information referred to in paragraph 1 of this Annex and shall promptly notify the Director of any modifications to such information.

4. Each Party shall also promptly inform the Director of:

   (a) any additions to the record;

   (b) deletions from the record by reason of:

      i. the voluntary relinquishment or non-renewal of the fishing authorization by the owner or operator of the vessel;

      ii. the withdrawal of the fishing authorization issued to the vessel in accordance with Article XX, paragraph 2, of this Convention;

      iii. the fact that the vessel is no longer entitled to fly its flag;

      iv. the scrapping, decommissioning or loss of the vessel; and

      v. any other reason,

specifying which of the reasons listed above are applicable.

5. This Annex applies, *mutatis mutandis*, to fishing entities that are members of the Commission.

ANNEX 2. PRINCIPLES AND CRITERIA FOR THE PARTICIPATION OF OBSERVERS AT MEETINGS OF THE COMMISSION

1. The Director shall invite to meetings of the Commission convened pursuant to Article VIII of this Convention intergovernmental organizations whose work is relevant to the implementation of this Convention, as well as non-Parties interested in conservation and sustainable use of the fish stocks covered by this Convention that so request.

2. Non-governmental organizations (NGOs) referred to in Article XVI, paragraph 2 of this Convention shall be eligible to participate as observers in all meetings of the Commission and its subsidiary bodies convened pursuant to Article VIII of this Convention, except meetings held in executive session or meetings of Heads of Delegation.

3. Any NGO desiring to participate as an observer in a meeting of the Commission shall notify the Director of its request to participate at least fifty (50) days in advance of the meeting. The Director shall notify the members of the Commission of the names of such NGOs, together with the information specified in paragraph 6 of this Annex, at least forty-five (45) days prior to the beginning of the meeting.

4. If a meeting of the Commission is held with less than fifty (50) days' notice, the Director shall have greater flexibility concerning the time frames established in paragraph 3 of this Annex.

5. An NGO wishing to participate in the meetings of the Commission and its subsidiary bodies may also be allowed to do so on an annual basis, subject to paragraph 7 of this Annex.

6. Requests for participation referred to in paragraphs 3, 4 and 5 of this Annex shall include the name and office locations of the NGO, and a description of its mission and how its mission and activities are related to the work of the Commission. Such information shall be updated if necessary.

7. An NGO desiring to participate as an observer may do so unless at least one-third of the members of the Commission object for cause in writing to such participation.

8. All observers admitted to a meeting of the Commission shall be sent or otherwise provided the same documentation generally available to the members of the Commission, except documentation containing business-confidential data.

9. Any observer admitted to a meeting of the Commission may:

   (a) attend meetings, subject to paragraph 2 of this Annex, but not vote;

   (b) make oral statements during the meetings upon the invitation of the Chairman;

   (c) distribute documents at the meeting, with the approval of the Chairman; and

   (d) engage in other activities, as appropriate and as approved by the Chairman.

10. The Director may require non-Party and NGO observers to pay reasonable fees, and to cover costs attributable to their attendance.

11. All observers admitted to a meeting of the Commission shall comply with all rules and procedures applicable to other participants in the meeting.

12. Any NGO that does not comply with the requirements of paragraph 11 of this Annex shall be excluded from further participation in meetings, unless the Commission decides otherwise.

ANNEX 3. COMMITTEE FOR THE REVIEW OF IMPLEMENTATION OF MEASURES ADOPTED BY THE COMMISSION
The functions of the Committee for the Review of Implementation of Measures Adopted by the Commission established under Article X of this Convention shall be the following:
(a) review and monitor compliance with conservation and management measures adopted by the Commission, as well as cooperative measures referred to in Article XVIII, paragraph 9, of this Convention;
(b) analyze information by flag or, when information by flag would not cover the relevant case, by vessel, and any other information necessary to carry out its functions;
(c) provide the Commission with information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures;
(d) recommend to the Commission means of promoting compatibility among the fisheries management measures of the members of the Commission;
(e) recommend to the Commission means to promote the effective implementation of Article XVIII, paragraph 10, of this Convention;
(f) in consultation with the Scientific Advisory Committee, recommend to the Commission the priorities and objectives of the program for data collection and monitoring established in Article VII, subparagraph (I) of paragraph 1, of this Convention and assess and evaluate the results of that program;
(g) perform such other functions as the Commission may direct.

ANNEX 4. SCIENTIFIC ADVISORY COMMITTEE
The functions of the Scientific Advisory Committee established under Article XI of this Convention shall be the following:
(a) review the plans, proposals and research programs of the Commission, and provide to the Commission such advice as may be appropriate;
(b) review any relevant assessments, analyses, research or work, as well as recommendations prepared for the Commission by its scientific staff prior to consideration of such recommendations by the Commission, and to provide additional information, advice and comments, as warranted, to the Commission on these matters;
(c) recommend to the Commission specific issues and items to be addressed by the scientific staff as part of its future work;
(d) in consultation with the Committee for the Review of the Implementation of Measures Adopted by the Commission, recommend to the Commission the priorities and objectives of the program for data collection and monitoring established in Article VII, subparagraph (i) of paragraph 1, of this Convention and assess and evaluate the results of that program;
(e) assist the Commission and the Director in locating sources of funding to conduct the research to be undertaken under this Convention;
(f) develop and promote cooperation between and among the members of the Commission through their research institutions, with the purpose of expanding the knowledge and understanding of the fish stocks covered by this Convention;
(g) promote and facilitate, as appropriate, the cooperation of the Commission with other national and international public or private organizations with similar objectives;
(h) consider any matter referred to it by the Commission;
(i) perform such other functions and tasks as may be requested or assigned to it by the Commission.