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ANNEX

ANNEX

to the

Proposal for a COUNCIL DECISION

on the accession of the European Union to the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean

ANNEX

CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGH SEAS FISHERIES RESOURCES IN THE NORTH PACIFIC OCEAN

The CONTRACTING PARTIES,

Committed to ensuring the long-term conservation and sustainable use of fisheries resources in the North Pacific Ocean and in so doing safeguarding the marine ecosystems in which these resources occur;

Recalling relevant international law as reflected in 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 Conference of the Food and Agriculture Organization of the United Nations ("FAO") at its 28th session on 31 October 1995 as well as the *International Guidelines for the Management of Deep-Sea Fisheries in the High Seas* adopted by FAO on 29 August 2008;

Noting the call from the United Nations General Assembly in its resolutions 61/105 and 64/72 to take steps to protect vulnerable marine ecosystems and associated species from significant adverse impacts of destructive fishing practices and its resolution 60/31 encouraging States, as appropriate, to recognize that the general principles of 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 should also apply to discrete fish stocks in the high seas;

Recognizing the necessity to collect scientific data in order to understand the marine biodiversity and ecology in the region and to assess the impacts of fisheries on marine species and vulnerable marine ecosystems;

Conscious of the need to avoid adverse impacts on the marine environment, to preserve biodiversity, to maintain the integrity of marine ecosystems, and to minimize the risk of long-term or irreversible effects of fishing operations;

Concerned about possible adverse impacts of unregulated bottom fishing activities on marine species and vulnerable marine ecosystems on the high seas of the North Pacific Ocean;

Further committed to conducting responsible fishing activities and to cooperating effectively to prevent, deter and eliminate illegal, unreported and unregulated fishing ("IUU fishing") activities and the adverse impacts that they have on the state of the world's fisheries resources and the ecosystems in which they occur;

HAVE AGREED as follows:

Article 1
Use of Terms

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) "Bottom fishing" means fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations;

(d) "Consensus" means the absence of any formal objection made at the time the decision is taken;

(e) "Contracting Party" means any State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(f) "Convention Area" means the area to which this Convention applies, as prescribed in Article 4, paragraph 1;

(g) "FAO International Guidelines" means *the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas* adopted by FAO on 29 August 2008, as may be modified from time to time;

(h) "Fisheries resources" means all fish, mollusks, crustaceans and other marine species caught by fishing vessels within the Convention Area, excluding:

  (i) sedentary species insofar as they are subject to the sovereign rights of coastal States consistent with Article 77, paragraph 4 of the 1982 Convention and indicator species of vulnerable marine ecosystems as listed in, or adopted pursuant to, Article 13, paragraph 5 of this Convention;

  (ii) catadromous species;

  (iii) marine mammals, marine reptiles and seabirds; and

  (iv) other marine species already covered by pre-existing international fisheries management instruments within the area of competence of such instruments;

(i) "Fishing activities" means:

(i) the actual or attempted searching for, catching, taking or harvesting of fisheries resources;

(ii) engaging in any activity that can reasonably be expected to result in locating, catching, taking or harvesting of these resources for any purpose;

(iii) the processing of these resources at sea and the transshipping of these resources at sea or in port; and

(iv) any operation at sea in direct support of, or in preparation for, any activity described in subparagraphs (i) to (iii) above, except for any operation related to emergencies involving the health and safety of crew members or the safety of fishing vessels;

(j) "Fishing vessel" means any vessel used or intended for use for the purpose of engaging in fishing activities, including fish processing vessels, support ships, carrier vessels and any other vessel directly engaged in such fishing activities;

(k) "IUU fishing" refers to the activities as set out in paragraph 3 of the 2001 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) "Precautionary approach" means the precautionary approach as specified in Article 6 of the 1995 Agreement;

(m) "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; and

(n) "Transshipment" means the unloading of any fisheries resources or products of fisheries resources taken in the Convention Area from one fishing vessel to another fishing vessel either at sea or in port.

Article 2
Objective

The objective of this Convention is to ensure the long-term conservation and sustainable use of the fisheries resources in the Convention Area while protecting the marine ecosystems of the North Pacific Ocean in which these resources occur.

Article 3
General Principles

In giving effect to the objective of this Convention, the following actions shall be taken individually or collectively as appropriate:

(a) promoting the optimum utilization and ensuring the long-term sustainability of fisheries resources;

(b) adopting measures, based on the best scientific information available, to ensure that fisheries resources are maintained at or restored to levels capable of producing maximum sustainable yield, taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) adopting and implementing measures in accordance with the precautionary approach and an ecosystem approach to fisheries, and in accordance with the relevant rules of international law, in particular as reflected in the 1982 Convention, the 1995 Agreement and other relevant international instruments;

(d) assessing the impacts of fishing activities on species belonging to the same ecosystem or dependent upon or associated with the target stocks and adopting, where necessary, conservation and management measures for such species with a view to maintaining or restoring the populations of such species above levels at which their reproduction may become seriously threatened;

(e) protecting biodiversity in the marine environment, including by preventing significant adverse impacts on vulnerable marine ecosystems, taking into account any relevant international standards or guidelines including the FAO International Guidelines;

(f) preventing or eliminating overfishing and excess fishing capacity, and ensuring that levels of fishing effort or harvest levels are based on the best scientific information available and do not exceed those commensurate with the sustainable use of the fisheries resources;

(g) ensuring that complete and accurate data concerning fishing activities, including with respect to all target and non-target species within the Convention Area, are collected and shared in a timely and appropriate manner;

(h) ensuring that any expansion of fishing effort, development of new or exploratory fisheries, or change in the gear used for existing fisheries, does not proceed without prior assessment of the impacts of those fishing activities on the long term sustainability of fisheries resources and a determination that those activities would not have significant adverse impacts on vulnerable marine ecosystems, or ensuring that those activities are managed to prevent those impacts or are not authorized to proceed;

(i) ensuring, in accordance with Article 7 of the 1995 Agreement, that conservation and management measures established for straddling fish stocks on the high seas and those adopted for areas under national

jurisdiction are compatible in order to ensure conservation and management of these fisheries resources in their entirety;

(j) ensuring compliance with conservation and management measures and that sanctions applicable in respect of violations are adequate in severity to be effective in securing compliance, to discourage violations wherever they occur and to deprive offenders of the benefits accruing from their illegal activities;

(k) minimizing pollution and waste originating from fishing vessels, discards, catch by lost or abandoned gear, and impacts on other species and marine ecosystems through measures including, to the extent practicable, the development and use of selective, environmentally safe, and cost-effective fishing gear and techniques; and

(l) applying this Convention in a fair, transparent and non-discriminatory manner, consistent with international law.

Article 4
Area of Application

1. This Convention applies to the waters of the high seas area of the North Pacific Ocean, excluding the high seas areas of the Bering Sea and other high seas areas that are surrounded by the exclusive economic zone of a single State. The area of application is bounded to the south by a continuous line beginning at the seaward limit of waters under the jurisdiction of the United States of America around the Commonwealth of the Northern Mariana Islands at twenty (20) degrees North latitude, then proceeding East and connecting the following coordinates:

- 20°00’00”N, 180°00’00”E/W;
- 10°00’00”N,180°00’00”E/W;
- 10°00’00”N,140°00’00”W;
- 20°00’00”N, 140°00’00”W; and
- Thence East to the seaward limit of waters under the fisheries jurisdiction of Mexico.

2. Nothing in this Convention, nor any act or activity carried out in pursuance of this Convention, shall constitute recognition of the claims or positions of any Contracting Party concerning the legal status and extent of waters and zones claimed by any such Contracting Party.

Article 5
Establishment of the Commission

1. The North Pacific Fisheries Commission (“Commission”) is hereby established. The Commission shall function in accordance with the provisions of this Convention. Each Contracting Party shall be a member of the Commission.

2. A fishing entity referred to in the Convention may participate in the work of the Commission in accordance with the Annex. The participation of a fishing entity in the work of the Commission shall not constitute a deviation from accepted application of international law, including the 1982 Convention.

3. The Commission shall hold a regular meeting at least once every two years at a time and location to be decided by the Commission and may hold such other meetings as may be necessary to carry out its functions under this Convention.

4. Any member of the Commission may request a meeting of the Commission, which shall be convened with the consent of a majority of the members of the Commission. The Chairperson shall then convene such a meeting in a timely fashion at such time and place as the Chairperson may determine in consultation with the members of the Commission.

5. The Commission shall elect a Chairperson and a vice-Chairperson from among the representatives of Contracting Parties, who shall each be from a different Contracting Party. They shall be elected for a period of two years and shall be eligible for reelection, but shall not serve for more than four years in succession in the same capacity. The Chairperson and the vice-Chairperson shall remain in office until the election of their successors.

6. The Commission shall apply the principle of cost-effectiveness to the frequency, duration and scheduling of meetings of the Commission and its subsidiary bodies.

7. The Commission shall have international legal personality and such legal capacity as may be necessary to perform its functions and achieve its objectives. The privileges and immunities that the Commission and its officers shall enjoy in the territory of a Contracting Party shall be determined by agreement between the Commission and the Contracting Party concerned.

8. All meetings of the Commission and subsidiary bodies shall be open to participation by accredited observers in accordance with Rules of Procedure that the Commission shall adopt. Related documents shall be made publicly available in accordance with such Rules of Procedure.

9. The Commission may establish a permanent Secretariat consisting of an Executive Secretary and other such staff as the Commission may require and/or enter into contractual arrangements with the Secretariat of an existing organization for the provision of services. Any Executive Secretary shall be appointed with the approval of the Contracting Parties.

Article 6
Subsidiary Bodies

1. A Scientific Committee and a Technical and Compliance Committee are hereby established. The Commission may establish by consensus any other subsidiary bodies from time to time to assist in meeting the objective of this Convention.

2. Each subsidiary body shall, after each meeting, provide a report on its work to the Commission that includes, where appropriate, advice and recommendations to the Commission.

3. Subsidiary bodies may establish working groups and may seek external advice in accordance with any guidance provided by the Commission.

4. Subsidiary bodies shall be responsible to the Commission and shall operate under the Rules of Procedure of the Commission, unless the Commission decides otherwise.

Article 7
Functions of the Commission

1. The Commission shall, in accordance with the principles set out in Article 3 and based on the best scientific information available and the advice of the Scientific Committee:

   (a) adopt conservation and management measures to ensure the long-term sustainability of the fisheries resources within the Convention Area, including the total allowable catch or total allowable level of fishing effort for those fisheries resources as the Commission may decide;

   (b) ensure that levels of total allowable catch or total allowable level of fishing effort are in accordance with the advice and recommendations of the Scientific Committee;

   (c) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or dependent upon or associated with the target stocks;

   (d) adopt, where necessary, management strategies for any fisheries resources and for species belonging to the same ecosystem or dependent upon or associated with the target stocks, as may be necessary to achieve the objective of this Convention;

   (e) adopt conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems in the Convention Area, including but not limited to:

      (i) measures for conducting and reviewing impact assessments to determine if fishing activities would produce such impacts on such ecosystems in a given area;

      (ii) measures to address unexpected encounters with vulnerable marine ecosystems in the course of normal bottom fishing activities; and

      (iii) as appropriate, measures that specify locations in which fishing activities shall not occur;

   (f) determine the nature and extent of participation in existing fisheries, including through the allocation of fishing opportunities;

(g) establish by consensus the terms and conditions for any new fisheries in the Convention Area and the nature and extent of participation in such fisheries, including through the allocation of fishing opportunities; and

(h) agree on means by which the fishing interests of new Contracting Parties may be accommodated in a manner consistent with the need to ensure the long-term sustainability of the fisheries resources covered by this Convention.

2. The Commission shall adopt measures to ensure effective monitoring, control and surveillance, as well as compliance with and enforcement of the provisions of this Convention and measures adopted pursuant to this Convention. To this end, the Commission shall:

(a) establish procedures for the regulation and monitoring of transshipment of fisheries resources and products of fisheries resources taken in the Convention Area, including notification to the Commission of the location and quantity of any transshipment;

(b) develop and implement a North Pacific Ocean Fisheries Observer Program ("Observer Program"), taking into account relevant international standards and guidelines;

(c) establish procedures for the boarding and inspection of fishing vessels in the Convention Area;

(d) establish appropriate cooperative mechanisms for effective monitoring, control and surveillance to ensure enforcement of the conservation and management measures adopted by the Commission including mechanisms to prevent, deter and eliminate IUU fishing;

(e) develop standards, specifications and procedures for members of the Commission to report movements and activities using real-time satellite position-fixing transmitters for vessels engaged in fishing activities in the Convention Area and, in accordance with those procedures, coordinate timely dissemination of data collected from members' satellite vessel monitoring systems;

(f) establish procedures by which entry into and exit from the Convention Area of fishing vessels catching or planning to catch fisheries resources in the Convention Area are notified to the Commission in a timely manner;

(g) establish, where appropriate, non-discriminatory market-related measures consistent with international law to prevent, deter and eliminate IUU fishing; and

(h) establish procedures for reviewing compliance with the provisions of this Convention and measures adopted pursuant to this Convention.

3. The Commission shall:

(a) adopt and/or amend as necessary, by consensus, the rules for the conduct of its meetings and for the exercise of its functions, including Rules of Procedure, Financial Regulations and other regulations;

(b) adopt a plan of work and terms of reference for the Scientific Committee, for the Technical and Compliance Committee and, as necessary, for other subsidiary bodies;

(c) refer to the Scientific Committee any question pertaining to the scientific basis for the decisions the Commission may need to take concerning conserving and managing fisheries resources and species belonging to the same ecosystem or dependent upon or associated with the target stocks and assessing and addressing the impacts of fishing activities on vulnerable marine ecosystems;

(d) establish the terms and conditions for any experimental, scientific, and exploratory fishing activities in the Convention Area and determine the scope of any cooperative scientific research on fisheries resources, vulnerable marine ecosystems, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;

(e) adopt and amend from time to time a list of indicator species for vulnerable marine ecosystems for which directed fishing shall be prohibited;

(f) direct the external relations of the Commission; and

(g) perform such other functions and carry out such other activities as may be necessary to promote the objective of this Convention.

Article 8
Decision-Making

1. As a general rule, the Commission shall make its decisions by consensus.

2. Except where this Convention expressly provides that a decision shall be taken by consensus, if the Chairperson considers that all efforts to reach consensus have been exhausted:

(a) decisions of the Commission on questions of procedure shall be taken by a majority of members of the Commission casting affirmative or negative votes; and

(b) decisions on questions of substance shall be taken by a three-quarters majority of members of the Commission casting affirmative or negative votes.

3. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance.

4. No decisions shall be taken unless there is a quorum of two-thirds of the members of the Commission present at the time the decision is to be taken.

Article 9
Implementation of Commission Decisions

1. Binding decisions by the Commission shall take effect in the following manner:

(a) the Chairperson of the Commission shall notify promptly in writing all members of the Commission of such a decision following its adoption by the Commission;

(b) the decision shall become binding upon all members of the Commission ninety (90) days after the date of transmittal specified in the Chairperson's notification of the adoption of the decision by the Commission, pursuant to subparagraph (a) above, unless otherwise specified in the decision;

(c) a member of the Commission may object to a decision solely on the grounds that the decision is inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement, or that the decision unjustifiably discriminates in form or in fact against the objecting member;

(d) if a member of the Commission presents an objection, it shall so notify the Chairperson of the Commission in writing at least two weeks in advance of the date that the decision becomes binding in accordance with subparagraph (b) above; in this case, the decision shall not, to the extent stated, be binding upon that member; however, the decision shall remain binding on all other members unless the Commission decides otherwise;

(e) any member of the Commission that makes a notification under subparagraph (d) above shall specify whether the decision is inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement, or unjustifiably discriminates in form or in fact against that member and, at the same time, provide a written explanation of the grounds for its position. The member must also adopt and implement alternative measures that are equivalent in effect to the decision to which it has objected and that have the same date of application;

(f) the Chairperson shall promptly circulate to all members of the Commission details of any notification and explanation received in accordance with subparagraphs (d) and (e) above;

(g) in the event that any member of the Commission invokes the procedure set out in subparagraphs (d) and (e) above, a Commission meeting shall take place at the request of any other member to review the decision to which the objection has been presented. The Commission shall, at its expense, invite to that meeting two or more experts who are nationals of non-members of the Commission and who have sufficient knowledge of international law related to fisheries and of the operation of regional fisheries management organizations to provide advice to the Commission

on the matter in question. The selection and activities of these experts shall be in accordance with procedures to be adopted by the Commission;

(h) the Commission meeting shall consider whether the grounds specified for the objection presented by the member of the Commission are justified and whether the alternative measures adopted are equivalent in effect to the decision to which the objection has been presented;

(i) if the Commission finds that the decision to which objection has been presented does not discriminate in form or fact against the objecting member of the Commission and is not inconsistent with this Convention, the 1982 Convention or the 1995 Agreement, but that the alternative measures are equivalent in effect to the decision by the Commission and should be accepted as such by the Commission, the alternative measures shall be binding on the objecting member in substitution for the decision to which the objection has been presented; and

(j) if the Commission finds that the decision to which objection has been presented does not discriminate in form or in fact against the objecting member and is not inconsistent with this Convention, the 1982 Convention or the 1995 Agreement, but that the alternative measures are not equivalent in effect to the decision to which it has objected, the objecting member may:

(i) present different alternative measures to be considered by the Commission;

(ii) within forty-five (45) days implement the original decision to which it had presented an objection; or

(iii) institute dispute settlement proceedings pursuant to Article 19 or paragraph 4 of the Annex.

2. Any member of the Commission that invokes the right of objection set out in paragraph 1 may at any time withdraw its notification of objection and become bound by the decision immediately if it is already in effect or at such time as it may come into effect under this Article.

Article 10
Scientific Committee

1. The Scientific Committee shall provide scientific advice and recommendations in accordance with the terms of reference for the Committee to be adopted at the first regular meeting of the Commission and as may be amended from time to time.

2. The Scientific Committee shall meet, unless the Commission otherwise decides, at least once every two years, and prior to the regular meeting of the Commission.

3. The Scientific Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.

4. The functions of the Scientific Committee shall be to:

(a) recommend to the Commission a research plan, including specific issues and items to be addressed by the scientific experts or by other organizations or individuals, as appropriate, and identify data needs and coordinate activities that meet those needs;

(b) regularly plan, conduct and review the scientific assessments of the status of fisheries resources in the Convention Area, identify actions required for their conservation and management, and provide advice and recommendations to the Commission;

(c) collect, analyse and disseminate relevant information;

(d) assess the impacts of fishing activities on fisheries resources and species belonging to the same ecosystem or dependent upon or associated with the target stocks;

(e) develop a process to identify vulnerable marine ecosystems, including relevant criteria for doing so, and identify, based on the best scientific information available, areas or features where these ecosystems are known to occur, or are likely to occur, and the location of bottom fisheries in relation to these areas or features, taking due account of the need to protect confidential information;

(f) identify and advise the Commission on additional indicator species for vulnerable marine ecosystems for which directed fishing shall be prohibited;

(g) establish science-based standards and criteria to determine if bottom fishing activities are likely to produce significant adverse impacts on vulnerable marine ecosystems or marine species in a given area based on international standards such as the FAO International Guidelines and make recommendation for measures to avoid such impacts;

(h) review any assessments, determinations and management measures and make any necessary recommendation in order to attain the objective of this Convention;

(i) develop rules and standards, for adoption by the Commission, for the collection, verification, reporting, and the security of, exchange of, access to and dissemination of data on fisheries resources, species belonging to the same ecosystem, or dependent upon or associated with the target stocks and fishing activities in the Convention Area;

(j) to the extent practicable, provide analysis to the Commission of alternative conservation and management measures that estimates the extent to which

each alternative would achieve the objectives of any management strategy adopted or under consideration by the Commission; and

(k) provide such other scientific advice to the Commission as it considers appropriate or as may be required by the Commission.

5. The Scientific Committee may exchange information on matters of mutual interest with other relevant scientific organizations or arrangements in accordance with the rules and standards adopted by the Commission pursuant to subparagraph 4(i) above and Article 21.

6. The Scientific Committee shall not duplicate the activities of other scientific organizations and arrangements that cover the Convention Area.

Article 11
Technical and Compliance Committee

1. The functions of the Technical and Compliance Committee shall be to:

(a) monitor and review compliance with conservation and management measures adopted by the Commission and make recommendations to the Commission as may be necessary; and

(b) review the implementation of cooperative measures for monitoring, control, surveillance and enforcement adopted by the Commission and make recommendations to the Commission as may be necessary.

2. The Commission shall decide when the Technical and Compliance Committee shall hold its initial meeting. Thereafter, the Technical and Compliance Committee shall meet, unless the Commission otherwise decides, at least once every two years, and prior to the regular meeting of the Commission.

3. The Technical and Compliance Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.

4. In carrying out its functions, the Technical and Compliance Committee shall:

(a) provide a forum for exchange of information concerning the means by which members of the Commission are implementing the conservation and management measures adopted by the Commission in the Convention Area and complementary measures in adjacent waters as appropriate;

(b) provide a forum for the exchange of information on enforcement, including enforcement efforts, strategies and plans;

(c) receive reports from each member of the Commission relating to measures that the member has taken to monitor, investigate and penalize violations of provisions of this Convention and measures adopted pursuant to this Convention;

(d) report to the Commission its findings or conclusions on the extent of compliance with conservation and management measures;

(e) make recommendations to the Commission on matters relating to monitoring, control, surveillance and enforcement;

(f) develop rules and procedures governing the use of data and other information for monitoring, control and surveillance purposes; and

(g) consider and/or investigate any other matters as may be referred to it by the Commission.

5. The Technical and Compliance Committee shall exercise its functions in accordance with the procedures and guidelines as the Commission may adopt from time to time.

Article 12
Budget

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

2. At each regular meeting, the Commission shall, by consensus, adopt an annual budget for each of the next two years. The Executive Secretary shall transmit draft budgets for each of those years to the members together with a schedule of contributions not later than sixty (60) days before the regular meeting of the Commission at which those budgets are to be considered. In the event that the Commission cannot reach consensus on the adoption of an annual budget for any given year, the Commission budget for the previous year shall carry forward for that year.

3. The budget shall be divided among members of the Commission in accordance with a formula to be adopted, by consensus, by the Commission. A member of the Commission that has become a member during the course of a financial year shall contribute to the budget an amount proportional to the number of complete months remaining in the year calculated from the day it became a member.

4. The Executive Secretary shall notify each member of the Commission of the amount of its contribution. Contributions shall be paid not later than four months after the date of this notification, in the currency of the State in which the Secretariat of the Commission is located. A member of the Commission that cannot meet the deadline shall explain to the Commission the reason it is unable to do so.

5. A member of the Commission that has not paid its contributions in full for two consecutive years shall not be entitled to participate in the making of decisions by the Commission, nor may it present objections to any decisions taken by the Commission, until it has discharged its financial obligations to the Commission.

6. The financial affairs of the Commission shall be audited annually by external auditors to be selected by the Commission.

Article 13
Flag State Duties

1. Each Contracting Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag:

   (a) operating in the Convention Area comply with the provisions of this Convention and measures adopted pursuant to this Convention and that such vessels do not engage in any activities that undermine the effectiveness of such measures; and

   (b) do not conduct unauthorized fishing activities within areas under the national jurisdiction of another State adjacent to the Convention Area.

2. No Contracting Party shall allow any fishing vessel entitled to fly its flag to be used for fishing activities in the Convention Area unless it has been authorized to do so by the appropriate authority or authorities of that Contracting Party. Each Contracting Party shall authorize the use of vessels entitled to fly its flag for fishing activities in the Convention Area only where it is able to exercise effectively its responsibilities in respect of those vessels under this Convention, the 1982 Convention and the 1995 Agreement.

3. Each Contracting Party shall ensure that fishing activities by fishing vessels entitled to fly its flag undertaken in violation of the provisions of this Convention, as well as measures adopted pursuant to this Convention and the authorization in paragraph 2, constitute a violation under its legal framework.

4. Each Contracting Party shall require fishing vessels that are entitled to fly its flag and that are engaged in fishing activities in the Convention Area:

   (a) to use real-time satellite position-fixing transmitters while in the Convention Area in accordance with procedures developed pursuant to Article 7, subparagraph 2(e);

   (b) to notify the Commission of their intention to enter and exit the Convention Area in accordance with procedures developed pursuant to Article 7, subparagraph 2(f); and

   (c) to notify the Commission of the location of any transshipment of fisheries resources and products of fisheries resources taken in the Convention Area, pending the adoption by the Commission of procedures for the regulation and monitoring of transshipments pursuant to Article 7, subparagraph 2(a).

5. Each Contracting Party shall prohibit vessels entitled to fly its flag from engaging in directed fishing on the following orders: Alcyonacea, Antipatharia, Gorgonacea, and Scleractinia, as well as any other indicator species for vulnerable marine ecosystems as may be identified from time to time by the Scientific Committee and adopted by the Commission.

6. Each Contracting Party shall place observers on board fishing vessels entitled to fly its flag operating in the Convention Area in accordance with the Observer

Program which shall be established in accordance with Article 7, subparagraph 2(b). Fishing vessels engaged in bottom fishing in the Convention Area shall have one hundred (100) percent coverage under the Observer Program. Fishing vessels engaged in other types of fishing activities in the Convention Area shall have a level of observer coverage as the Commission may decide.

7. Each Contacting Party shall ensure that fishing vessels entitled to fly its flag accept boarding by duly authorized inspectors in accordance with procedures for the boarding and inspection of fishing vessels in the Convention Area adopted by the Commission pursuant to Article 7, subparagraph 2(c). Duly authorized inspectors shall comply with these procedures.

8. For the purpose of the effective implementation of this Convention, each Contracting Party shall:

   (a) maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing activities in the Convention Area in accordance with the information requirements, rules, standards, and procedures adopted by the Commission;

   (b) provide annually to the Commission, in accordance with the procedures which shall be established by the Commission, information, as decided by the Commission, with respect to each fishing vessel entered in the record required to be maintained under this paragraph and shall promptly notify the Commission of any modifications to this information; and

   (c) provide to the Commission, as part of the annual report required pursuant to Article 16, the names of the fishing vessels entered in the record that conducted fishing activities during the previous calendar year.

9. Each Contracting Party shall also promptly inform the Commission of:

   (a) any additions to the record; and

   (b) any deletions from the record, specifying which of the following reasons is applicable:

      (i) the voluntary relinquishment of the fishing authorization by the fishing vessel owner or operator;

      (ii) the withdrawal or non-renewal of the fishing authorization issued in respect of the fishing vessel under paragraph 2;

      (iii) the fact that the fishing vessel concerned is no longer entitled to fly its flag;

      (iv) the scrapping, decommissioning or loss of the fishing vessel concerned; or

      (v) any other grounds, with a specific explanation provided.

10. The Commission shall maintain its own record of fishing vessels, based on the information provided to it pursuant to paragraphs 8 and 9. The Commission shall make this record publicly available through agreed means, taking due account of

the need to protect the confidentiality of personal information, consistent with the domestic practice of each Contracting Party. The Commission shall also provide to any Contracting Party, upon request, information about any vessel entered on the Commission record that is not otherwise publicly available.

11. Any Contracting Party that does not submit the data and information required under Article 16, paragraph 3 in respect of any year in which fishing occurred in the Convention Area by fishing vessels entitled to fly its flag shall not participate in the relevant fisheries until that data and information have been provided. The Rules of Procedure to be adopted by the Commission shall further guide the implementation of this paragraph.

Article 14
Port State Duties

1. A Contracting Party has the right and duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures.

2. Each Contracting Party shall:

   (a) give effect to port State measures adopted by the Commission in relation to the entry and use of its ports by fishing vessels that have engaged in fishing activities in the Convention Area including, *inter alia*, with respect to landing and transshipment of fisheries resources, inspection of fishing vessels, documents, catch and gear on board, and use of port services; and

   (b) provide assistance to flag States, as reasonably practicable and in accordance with its national law and international law, when a fishing vessel is voluntarily in its ports and the flag State of the vessel requests the Contracting Party 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 Contracting Party considers that a fishing vessel making use of its ports has violated a provision of this Convention or a conservation and management measure adopted by the Commission, it shall notify the flag State concerned, the Commission and other relevant States and appropriate international organizations. The Contracting Party shall provide the flag State and, as appropriate, the Commission with full documentation on the matter, including any record of inspection.

4. Nothing in this Article shall be construed to affect the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry to ports in their territory as well as to adopt more stringent port State measures than those adopted by the Commission pursuant to this Convention.

Article 15

Duties of Fishing Entities

Article 13 and Article 14, paragraphs 2 and 3 apply *mutatis mutandis* to any fishing entity that has expressed its firm commitment in accordance with the Annex.

Article 16
Data Collection, Compilation and Exchange

1. The Commission shall, taking full account of Annex I of the 1995 Agreement as well as relevant provisions of Articles 10 and 11, develop standards, rules and procedures for, *inter alia*:

   (a) the collection, verification and timely reporting to the Commission of all relevant data by members of the Commission;

   (a) the compilation and management by the Commission of accurate and complete data to facilitate effective stock assessment for ensuring that the provision of the best scientific advice is enabled;

   (b) the exchange of data among members of the Commission, and with other regional fisheries management organizations and arrangements, and other relevant organizations including data concerning vessels engaged in IUU fishing and, as appropriate, concerning the beneficial ownership of those vessels, with a view to consolidating that information into a centralized format for dissemination as appropriate;

   (c) the facilitation of coordinated documentation and data-sharing between regional fisheries management organizations and arrangements, including procedures to exchange data on vessel registers, and market-related measures where applicable; and

   (d) regular audits of Commission member 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 fishing vessels operating in the Convention Area, the status of fisheries resources managed under this Convention, fisheries resources assessments, research programs in the Convention Area, and cooperative initiatives with regional and global organizations.

3. The Commission shall establish the format of an annual report to be submitted by each member of the Commission. Each member of the Commission shall submit without delay to the Commission its annual report in accordance with this format. The annual report shall include a description of how the member of the Commission has implemented the conservation and management measures and monitoring, control and surveillance and enforcement procedures adopted by the Commission, including the outcome of any actions the member has taken in respect of Article 17, as well as information on any additional topics as the Commission may decide.

4. The Commission shall establish rules to ensure the security of, access to and dissemination of data, including data reported via real-time satellite position-fixing transmitters, while maintaining confidentiality where appropriate and taking due account of the domestic practices of members of the Commission.

Article 17
Compliance and Enforcement

1. Each member of the Commission shall enforce the provisions of this Convention and any relevant decisions of the Commission.

2. Each member of the Commission shall, either on its own initiative or at the request of any other member of the Commission and when provided with the relevant information, investigate fully any allegation that fishing vessels entitled to fly its flag have violated any of the provisions of this Convention or any conservation and management measure adopted by the Commission.

3. Where sufficient information is available in respect of an alleged violation of the provisions of this Convention or of measures adopted pursuant to this Convention by a fishing vessel entitled to fly its flag:

   (a) the member of the Commission shall be notified promptly of the alleged violation; and

   (b) the member of the Commission shall take appropriate actions in accordance with its laws and regulations, including instituting proceedings without delay and, where appropriate, detain the vessel concerned.

4. Where it has been established, in accordance with the laws of a member of the Commission, that a fishing vessel entitled to fly the flag of that member 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, that member of the Commission shall order the fishing vessel to cease operations and, in appropriate cases, shall order the fishing vessel to leave the Convention Area immediately. The member of the Commission shall ensure that the vessel concerned does not engage in fishing activities in the Convention Area for fisheries resources until such time as all outstanding sanctions imposed by that member in respect of the violation have been complied with.

5. For the purposes of this Article, a serious violation shall include any of the violations specified in Article 21, subparagraphs 11 (a) to (h) of the 1995 Agreement and such other violations as may be determined by the Commission.

6. If, within three (3) years of the entry into force of this Convention, the Commission is not able to agree on procedures for boarding and inspection of fishing vessels in the Convention Area, Articles 21 and 22 of the 1995 Agreement shall be applied as if they were part of this Convention. Boarding and inspection of fishing vessels in the Convention Area, as well as any subsequent enforcement action, shall be conducted in accordance with the procedures set out

in those Articles and any such additional practical procedures decided by the Commission.

7. Without prejudice to the primacy of the responsibility of the flag State, each member of the Commission, in accordance with its laws, shall:

(a) to the greatest extent possible, take measures and cooperate to ensure compliance by its nationals, and fishing vessels owned, operated or controlled by its nationals, with the provisions of this Convention and any conservation and management measures adopted by the Commission; and

(b) either on its own initiative or at the request of any other member of the Commission and when provided with the relevant information, promptly 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 measures adopted by the Commission.

8. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions provided for in the relevant laws and regulations of the members of the Commission shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur, and shall deprive offenders of the benefits accruing from their illegal activities.

9. A report on the progress of any investigation conducted pursuant to paragraphs 2, 3, 4 or 7, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member of the Commission making the request and to the Commission as soon as practicable and in any case within two months of the request. A report on the outcome of the investigation shall be provided to the member of the Commission making the request and to the Commission when the investigation is completed.

10. The provisions of this Article are without prejudice to:

(a) the rights of any of the members of the Commission in accordance with their laws and regulations relating to fisheries; and

(b) the rights of any of the Contracting Parties in relation to any provision relating to compliance and enforcement contained in any relevant bilateral or multilateral agreement not inconsistent with the provisions of this Convention, the 1982 Convention or the 1995 Agreement.

Article 18
Transparency

The Commission shall promote transparency in its decision-making processes and other activities. Representatives from intergovernmental organizations and non-governmental organizations concerned with matters relevant to the implementation of this Convention shall be afforded the opportunity to participate in the meetings of the Commission and its subsidiary bodies as observers or otherwise as members of the Commission deem

appropriate and as provided for in the Rules of Procedure that the Commission shall adopt. The procedures shall not be unduly restrictive in this respect. The intergovernmental organizations and non-governmental organizations shall be given timely access to pertinent information subject to the rules and procedures that the Commission may adopt. Any conservation, management and other measures or matters that are decided by the Commission or subsidiary bodies shall be made publicly available unless otherwise decided by the Commission.

Article 19
Settlement of Disputes

The provisions relating to the settlement of disputes set out in Part VIII of the 1995 Agreement apply, *mutatis mutandis*, to any dispute between Contracting Parties, whether or not they are also Parties to the 1995 Agreement.

Article 20
Cooperation with Non-Contracting Parties

1. The members of the Commission shall exchange information on the activities of fishing vessels in the Convention Area entitled to fly the flags of non-Contracting Parties to this Convention.

2. The Commission shall draw the attention of any non-Contracting Party to this Convention to any activity undertaken by its nationals or fishing vessels entitled to fly its flag which, in the opinion of the Commission, affects the attainment of the objective of this Convention.

3. The Commission shall request the non-Contracting Party identified in paragraph 2 to cooperate fully with the Commission either by becoming a Contracting Party or by agreeing to apply the conservation and management measures adopted by the Commission. Subject to such terms and conditions as the Commission may establish, such a cooperating non-Contracting Party to this Convention may enjoy benefits from participation in the fisheries commensurate with, *inter alia*, its commitment to comply with and its record of compliance with conservation and management measures in respect of the relevant fisheries resources and any financial contribution it makes to the Commission.

4. Each member of the Commission shall take measures consistent with this Convention, the 1982 Convention, the 1995 Agreement and other relevant international law to deter the activities of fishing vessels entitled to fly the flags of non-Contracting Parties to this Convention that undermine the effectiveness of conservation and management measures adopted by the Commission.

5. Each member of the Commission shall take appropriate measures, in accordance with its laws, aimed at preventing vessels entitled to fly its flag from transferring their registration to non-Contracting Parties to this Convention for the purpose of avoiding compliance with the provisions of this Convention.

Article 21
Cooperation with Other Organizations or Arrangements

1. The Commission shall cooperate, as appropriate, on matters of mutual interest with FAO, with other specialized agencies of the United Nations and with relevant regional organizations or arrangements, especially with those regional fisheries management organizations or arrangements with responsibility for fisheries in marine areas near or adjacent to the Convention Area.

2. The Commission shall take into account the conservation and management measures or recommendations adopted by regional fisheries management organizations and arrangements and other relevant intergovernmental organizations that have competence in relation to areas adjacent to the Convention Area or in respect of fisheries resources not covered by this Convention, species belonging to the same ecosystem or dependent upon or associated with the target stocks, and that have objectives that are consistent with and supportive of the objective of this Convention.

3. The Commission shall seek to develop cooperative working relationships and may enter into agreements for this purpose with intergovernmental organizations that can contribute to its work and have competence for ensuring the long-term conservation and sustainable use of living resources and their ecosystems. It may invite these organizations to send observers to its meetings or those of any of its subsidiary bodies. It may also seek to participate in meetings of these organizations as appropriate.

4. The Commission shall seek to make suitable arrangements for consultation, cooperation and collaboration with other regional fisheries management organizations or arrangements in order to utilize, to the maximum extent possible, existing institutions to achieve the objective of this Convention. In this regard, the Commission shall seek to establish cooperation on enforcement activities with those organizations and arrangements carrying out these activities in the Convention Area.

Article 22
Review

1. The Commission shall organize regular reviews of the effectiveness of its adopted conservation and management measures and compliance therewith in meeting the objective of this Convention. These reviews may include examination of the effectiveness of the provisions of the Convention itself.

2. The Commission shall determine the terms of reference and methodology of these reviews which shall:

   (a) take into account the practice of other regional fisheries management organizations in conducting performance reviews;

   (b) include contributions from the subsidiary bodies as appropriate; and

(c) include the participation of a person or persons of recognized competence who shall be independent of the members of the Commission.

3. The Commission shall take account of the recommendations arising from any such review and take actions, as appropriate, including 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 29.

4. The results of any such review and subsequent assessment by the Commission shall be made publicly available as soon as possible following their submission to the Commission.

Article 23
Signature, Ratification, Acceptance and Approval

1. This Convention shall be open for signature at Seoul on 1 April 2012 by the States that participated in the Multilateral Meetings on the Management of High Seas Fisheries in the North Pacific Ocean and shall remain open for signature for twelve (12) months.

2. This Convention shall be subject to ratification, acceptance or approval by the Signatories. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Korea, which shall be the Depositary. The Depositary shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and perform such other functions as are provided for in the *1969 Vienna Convention on the Law of Treaties* and customary international law.

Article 24
Accession

1. This Convention shall be open for accession by the States referred to in Article 23, paragraph 1.

2. After the entry into force of this Convention, the Contracting Parties may, by consensus, invite to accede to this Convention:

(a) other States or regional economic integration organizations whose fishing vessels wish to conduct fishing activities for fisheries resources in the Convention Area; and

(b) other coastal States of the Convention Area.

3. Any Contracting Party that does not join the consensus in relation to paragraph 2 shall present to the Commission in writing its reasons for not doing so.

4. Instruments of accession shall be deposited with the Depositary. The Depositary shall inform all Signatories and all Contracting Parties of all accessions.

Article 25
Entry into Force

1. This Convention shall enter into force one hundred and eighty (180) days from the date of receipt by the Depositary of the fourth instrument of ratification, acceptance, approval or accession.

2. For Contracting Parties that have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or thirty (30) days after the date of deposit of the instrument, whichever is the later date.

3. For Contracting Parties that have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective thirty (30) days after the date of deposit of the instrument.

Article 26
Reservations and Exceptions

No reservations or exceptions may be made to this Convention.

Article 27
Declarations and Statements

Article 26 does not preclude a State or regional economic integration organization, when signing, ratifying, accepting, approving or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization 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 or regional economic integration organization.

Article 28
Relation to Other Agreements

1. This Convention shall not alter the rights and obligations of Contracting Parties that arise from other agreements compatible with this Convention and that do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.

2. Nothing in this Convention shall prejudice the rights, jurisdiction and duties of Contracting Parties under the 1982 Convention or the 1995 Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the 1995 Agreement.

Article 29
Amendments

1. Any proposal to amend this Convention shall be sent in writing to the Chairperson of the Commission at least ninety (90) days prior to the meeting at which it is proposed to be considered, and the Chairperson of the Commission shall promptly transmit the proposal to all members of the Commission. Proposed amendments to this Convention shall be considered at the regular meeting of the Commission, unless a majority of the members of the Commission requests a special meeting to discuss the proposed amendment. A special meeting may be convened with not less than ninety (90) days notice.

2. Amendments to this Convention by the Commission shall be adopted by the Contracting Parties by consensus. The text of any amendments so adopted shall be transmitted by the Depositary to all Contracting Parties.

3. An amendment shall take effect for all Contracting Parties one hundred and twenty (120) days after the date of transmittal specified in the notification by the Depositary of receipt of written notification of approval by all Contracting Parties.

4. Any State or regional economic integration organization that becomes a Contracting Party to this Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved that amendment.

Article 30
Annex

The Annex shall form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Annex.

Article 31
Withdrawal

1. Any Contracting Party may withdraw from the Convention on 31 December of any year by giving notice on or before the preceding 30 June to the Depositary, which shall communicate copies of such notice to other Contracting Parties.

2. Any other Contracting Party may then withdraw from the Convention on the same 31 December by giving notice to the Depositary within one month of receipt of a copy of a notice of withdrawal given pursuant to paragraph 1.

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

DONE at Tokyo, on this twenty-fourth day of February 2012, in the English and French languages, each text being equally authentic.

Annex
Fishing Entities

1. After the entry into force of this Convention, any fishing entity whose vessels have fished or intend to fish for fisheries resources may, by a written instrument delivered to the Depositary, express its firm commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant to 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 on December 31 of any year by written notification on or before the preceding June 30 to the Depositary.

2. Any fishing entity referred to in paragraph 1 may, by a written instrument delivered to the Depositary, express its firm commitment to abide by the terms of this Convention as it may be amended pursuant to Article 29, paragraph 3. This commitment shall be effective from the dates referred to in Article 29, paragraph 3 or on the date of receipt of the written communication referred to in this paragraph, whichever is later.

3. A fishing entity that has expressed its firm commitment to abide by the terms of this Convention and comply with conservation and management measures adopted pursuant to this Convention in accordance with paragraph 1 must abide by the obligations of members of the Commission and may participate in the work, including decision-making, of the Commission in accordance with the provisions of this Convention. For the purposes of this Convention, references to the Commission or members of the Commission include such fishing entity.

4. If a dispute involves a fishing entity that has expressed its commitment to be bound by the terms of this Convention in accordance with this Annex 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.

5. The provisions of this Annex relating to the participation of a fishing entity are only for the purposes of this Convention.