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Ocean Governance: Policy, Law and Management

REFERENCE READER

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This Reference Reader is intended to assist professionals who are responsible for some aspects of marine management, particularly policy makers, in the creation of a National and Regional Ocean Policy to contribute further discussions and better understanding of key international legal instruments.

General Law of the Sea and Fisheries

- United Nations Convention on the Law of the Sea (UNCLOS)
United Nations, *Treaty Series*, vol. 1833, p. 3. (1982).....**Page 5**
- Agreement to promote compliance with international conservation and management measures by fishing vessels on the High Seas. Food and Agricultural Organization of the United Nations (FAO) (1993).....**Page 207**
- United Nations General Assembly – Forty eight session. Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, A/RES/48/263. 17 August (1994).....**Page 282**
- 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
United Nations, *Treaty Series*, vol. 2167, p. 3. (1995).....**Page 303**
- United Nations General Assembly – Fiftieth session. United Nations on Straddling Fish Stocks and Highly Migratory Fish Stocks: Report of the Secretary-General. A/50/550. 12 October (1995).....**Page 343**
- Code of Conduct for Responsible Fisheries. Food and Agricultural Organization of the United Nations (FAO) (1995).....**Page 392**
- International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) (2001).....**Page 441**
- United Nations General Assembly – Sixty first session. Resolution adopted by the General Assembly. Sustainable fisheries, including through the 1995 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, and related instruments. A/RES/61/105. (2007).....**Page 459**

Climate Change

- Agenda 21: Programme of Action for Sustainable Development and Rio Declaration on Environment and Development - Chapter 17, full text. United Nations Conference on Environment and Development (UNCED) (1992).....**Page 480**
- United Nations Framework Convention on Climate Change (UNFCCC) (1992)..**Page 514**

- United Nations Convention on Biological Diversity: text and Annex. United Nations Conference on Environment and Development (UNEP) (1992).....**Page 540**
- Washington Declaration on Protection of the Marine Environment from Land-Based Activities. United Nations Environment Programme, (UNEP) UNEP(OAC)/LBA/IG.2/6 (1995).....**Page 622**
- Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities. UNEP (OAC)/LBA/IG.2/7 (1995).....**Page 625**
- United Nations Convention on the Law of the Non-Navigational Uses of International Watercourse. A/51/869 (1997).....**Page 686**

Maritime Safety and Security and Marine Pollution

- International Convention for the Safety of Life at Sea (SOLAS), (1974).....**Page 704**
- The Torremolinos International Convention for the Safety of Fishing Vessels (SFV), (1977).....**Page 731**
- International Convention on Maritime Search and Rescue (SAR), (1979).....**Page 737**
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), (1988).....**Page 758**
- International Convention for the Control and Management of Ships' Ballast Water and Sediments (2004).....**Page 768**

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PREAMBLE

The States Parties to this Convention,

Prompted by the desire to settle, in a spirit of mutual understanding and cooperation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

Noting that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Recognizing the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the achievement of these goals will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared *inter alia* that the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

Believing that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter,

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

INTRODUCTION

Article 1 *Use of terms and scope*

1. For the purposes of this Convention:
 - (1) "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;
 - (2) "Authority" means the International Seabed Authority;
 - (3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;
 - (4) "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;
 - (5) (a) "dumping" means:
 - (i) any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
 - (ii) any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea;
 - (b) "dumping" does not include:
 - (i) the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
 - (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.
2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.
 - (2) This Convention applies *mutatis mutandis* to the entities referred to in article 305, paragraph 1(b), (c), (d), (e) and (f), which become Parties to this Convention in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

PART II
TERRITORIAL SEA AND CONTIGUOUS ZONE

SECTION 1. GENERAL PROVISIONS

Article 2

*Legal status of the territorial sea, of the air space
over the territorial sea and of its bed and subsoil*

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3

Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

Article 4

Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 5

Normal baseline

Except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 6

Reefs

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.

Article 7
Straight baselines

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

Article 8
Internal waters

1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

Article 9
Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

Article 10
Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

Article 11 *Ports*

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

Article 12 *Roadsteads*

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

Article 13 *Low-tide elevations*

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 14
Combination of methods for determining baselines

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

Article 15
Delimitation of the territorial sea between States
with opposite or adjacent coasts

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

Article 16
Charts and lists of geographical coordinates

1. The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, a list of geographical coordinates of points, specifying the geodetic datum, may be substituted.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

Article 17
Right of innocent passage

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18
Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:
 - (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
 - (b) proceeding to or from internal waters or a call at such roadstead or port facility.
2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental

to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 19
Meaning of innocent passage

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
- (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
- (e) the launching, landing or taking on board of any aircraft;
- (f) the launching, landing or taking on board of any military device;
- (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
- (h) any act of wilful and serious pollution contrary to this Convention;
- (i) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.

Article 20
Submarines and other underwater vehicles

In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 21
Laws and regulations of the coastal State relating to innocent passage

1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:

- (a) the safety of navigation and the regulation of maritime traffic;
- (b) the protection of navigational aids and facilities and other facilities or installations;
- (c) the protection of cables and pipelines;

- (d) the conservation of the living resources of the sea;
- (e) the prevention of infringement of the fisheries laws and regulations of the coastal State;
- (f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
- (g) marine scientific research and hydrographic surveys;
- (h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.

2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.

3. The coastal State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

Article 22

Sea lanes and traffic separation schemes in the territorial sea

1. The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships.

2. In particular, tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sea lanes.

3. In the designation of sea lanes and the prescription of traffic separation schemes under this article, the coastal State shall take into account:

- (a) the recommendations of the competent international organization;
- (b) any channels customarily used for international navigation;
- (c) the special characteristics of particular ships and channels; and
- (d) the density of traffic.

4. The coastal State shall clearly indicate such sea lanes and traffic separation schemes on charts to which due publicity shall be given.

Article 23

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

Article 24
Duties of the coastal State

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea except in accordance with this Convention. In particular, in the application of this Convention or of any laws or regulations adopted in conformity with this Convention, the coastal State shall not:

- (a) impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage; or
- (b) discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State shall give appropriate publicity to any danger to navigation, of which it has knowledge, within its territorial sea.

Article 25
Rights of protection of the coastal State

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

3. The coastal State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, including weapons exercises. Such suspension shall take effect only after having been duly published.

Article 26
Charges which may be levied upon foreign ships

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

**SUBSECTION B. RULES APPLICABLE TO
MERCHANT SHIPS AND GOVERNMENT SHIPS
OPERATED FOR COMMERCIAL PURPOSES**

Article 27
Criminal jurisdiction on board a foreign ship

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage, save only in the following cases:

- (a) if the consequences of the crime extend to the coastal State;

- (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;
- (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or
- (d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2, the coastal State shall, if the master so requests, notify a diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.

5. Except as provided in Part XII or with respect to violations of laws and regulations adopted in accordance with Part V, the coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 28

Civil jurisdiction in relation to foreign ships

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. Paragraph 2 is without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

SUBSECTION C. RULES APPLICABLE TO WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

Article 29

Definition of warships

For the purposes of this Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate

service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Article 30
Non-compliance by warships with the laws and regulations
of the coastal State

If any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

Article 31
Responsibility of the flag State for damage caused by a warship
or other government ship operated for non-commercial purposes

The flag State shall bear international responsibility for any loss or damage to the coastal State resulting from the non-compliance by a warship or other government ship operated for non-commercial purposes with the laws and regulations of the coastal State concerning passage through the territorial sea or with the provisions of this Convention or other rules of international law.

Article 32
Immunities of warships and other government ships
operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SECTION 4. CONTIGUOUS ZONE

Article 33
Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:
 - (a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;
 - (b) punish infringement of the above laws and regulations committed within its territory or territorial sea.
2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

PART III
STRAITS USED FOR INTERNATIONAL
NAVIGATION

SECTION 1. GENERAL PROVISIONS

Article 34

Legal status of waters forming straits used for international navigation

1. The regime of passage through straits used for international navigation established in this Part shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Part and to other rules of international law.

Article 35

Scope of this Part

Nothing in this Part affects:

- (a) any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such;
- (b) the legal status of the waters beyond the territorial seas of States bordering straits as exclusive economic zones or high seas; or
- (c) the legal regime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

Article 36

*High seas routes or routes through exclusive economic zones
through straits used for international navigation*

This Part does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedoms of navigation and overflight, apply.

SECTION 2. TRANSIT PASSAGE

Article 37

Scope of this section

This section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

Article 38
Right of transit passage

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics.

2. Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.

Article 39
Duties of ships and aircraft during transit passage

1. Ships and aircraft, while exercising the right of transit passage, shall:
 - (a) proceed without delay through or over the strait;
 - (b) refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
 - (c) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress;
 - (d) comply with other relevant provisions of this Part.
2. Ships in transit passage shall:
 - (a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;
 - (b) comply with generally accepted international regulations, procedures and practices for the prevention, reduction and control of pollution from ships.
3. Aircraft in transit passage shall:
 - (a) observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; state aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;
 - (b) at all times monitor the radio frequency assigned by the competent internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 40
Research and survey activities

During transit passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the States bordering straits.

Article 41
Sea lanes and traffic separation schemes in straits
used for international navigation

1. In conformity with this Part, States bordering straits may designate sea lanes and prescribe traffic separation schemes for navigation in straits where necessary to promote the safe passage of ships.

2. Such States may, when circumstances require, and after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by them.

3. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

4. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, States bordering straits shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the States bordering the straits, after which the States may designate, prescribe or substitute them.

5. In respect of a strait where sea lanes or traffic separation schemes through the waters of two or more States bordering the strait are being proposed, the States concerned shall cooperate in formulating proposals in consultation with the competent international organization.

6. States bordering straits shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by them on charts to which due publicity shall be given.

7. Ships in transit passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

Article 42
Laws and regulations of States bordering straits
relating to transit passage

1. Subject to the provisions of this section, States bordering straits may adopt laws and regulations relating to transit passage through straits, in respect of all or any of the following:

- (a) the safety of navigation and the regulation of maritime traffic, as provided in article 41;
- (b) the prevention, reduction and control of pollution, by giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;
- (c) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;

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- (d) the loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary laws and regulations of States bordering straits.
2. Such laws and regulations shall not discriminate in form or in fact among foreign ships or in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this section.
3. States bordering straits shall give due publicity to all such laws and regulations.
4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations.
5. The flag State of a ship or the State of registry of an aircraft entitled to sovereign immunity which acts in a manner contrary to such laws and regulations or other provisions of this Part shall bear international responsibility for any loss or damage which results to States bordering straits.

Article 43

*Navigational and safety aids and other improvements
and the prevention, reduction and control of pollution*

User States and States bordering a strait should by agreement cooperate:

- (a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and
- (b) for the prevention, reduction and control of pollution from ships.

Article 44

Duties of States bordering straits

States bordering straits shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which they have knowledge. There shall be no suspension of transit passage.

SECTION 3. INNOCENT PASSAGE

Article 45

Innocent passage

1. The regime of innocent passage, in accordance with Part II, section 3, shall apply in straits used for international navigation:
- (a) excluded from the application of the regime of transit passage under article 38, paragraph 1; or
- (b) between a part of the high seas or an exclusive economic zone and the territorial sea of a foreign State.
2. There shall be no suspension of innocent passage through such straits.

PART IV

ARCHIPELAGIC STATES

Article 46 *Use of terms*

For the purposes of this Convention:

- (a) "archipelagic State" means a State constituted wholly by one or more archipelagos and may include other islands;
- (b) "archipelago" means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 47 *Archipelagic baselines*

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.

2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.

9. The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Article 48

Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47.

Article 49

Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

3. This sovereignty is exercised subject to this Part.

4. The regime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

Article 50

Delimitation of internal waters

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 9, 10 and 11.

Article 51

Existing agreements, traditional fishing rights and existing submarine cables

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

2. An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such

cables upon receiving due notice of their location and the intention to repair or replace them.

Article 52
Right of innocent passage

1. Subject to article 53 and without prejudice to article 50, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with Part II, section 3.

2. The archipelagic State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its archipelagic waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

Article 53
Right of archipelagic sea lanes passage

1. An archipelagic State may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.

2. All ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes.

3. Archipelagic sea lanes passage means the exercise in accordance with this Convention of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

4. Such sea lanes and air routes shall traverse the archipelagic waters and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through or over archipelagic waters and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.

5. Such sea lanes and air routes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points. Ships and aircraft in archipelagic sea lanes passage shall not deviate more than 25 nautical miles to either side of such axis lines during passage, provided that such ships and aircraft shall not navigate closer to the coasts than 10 per cent of the distance between the nearest points on islands bordering the sea lane.

6. An archipelagic State which designates sea lanes under this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sea lanes.

7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by it.

8. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

9. In designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the

competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them.

10. The archipelagic State shall clearly indicate the axis of the sea lanes and the traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

11. Ships in archipelagic sea lanes passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

12. If an archipelagic State does not designate sea lanes or air routes, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

Article 54

*Duties of ships and aircraft during their passage,
research and survey activities, duties of the archipelagic State
and laws and regulations of the archipelagic State
relating to archipelagic sea lanes passage*

Articles 39, 40, 42 and 44 apply *mutatis mutandis* to archipelagic sea lanes passage.

PART V

EXCLUSIVE ECONOMIC ZONE

Article 55

Specific legal regime of the exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56

Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:
 - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
 - (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
 - (i) the establishment and use of artificial islands, installations and structures;

- (ii) marine scientific research;
- (iii) the protection and preservation of the marine environment;
- (c) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

Article 57

Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 58

Rights and duties of other States in the exclusive economic zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Article 59

*Basis for the resolution of conflicts
regarding the attribution of rights and jurisdiction
in the exclusive economic zone*

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

Article 60
Artificial islands, installations and structures
in the exclusive economic zone

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

- (a) artificial islands;
- (b) installations and structures for the purposes provided for in article 56 and other economic purposes;
- (c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization. Due notice shall be given of the extent of safety zones.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 61
Conservation of the living resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall cooperate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.

4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62
Utilization of the living resources

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

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- (a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;
 - (b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;
 - (c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used;
 - (d) fixing the age and size of fish and other species that may be caught;
 - (e) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;
 - (f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;
 - (g) the placing of observers or trainees on board such vessels by the coastal State;
 - (h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;
 - (i) terms and conditions relating to joint ventures or other cooperative arrangements;
 - (j) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;
 - (k) enforcement procedures.
5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 63

Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 64

Highly migratory species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Part.

Article 65
Marine mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 66
Anadromous stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3(b). The State of origin may, after consultations with the other States referred to in paragraphs 3 and 4 fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks.
- (b) The State of origin shall cooperate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.
- (c) States referred to in subparagraph (b), participating by agreement with the State of origin in measures to renew

anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

- (d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall cooperate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 67
Catadromous species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in these zones.

3. In cases where catadromous fish migrate through the exclusive economic zone of another State, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the other State concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 68
Sedentary species

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

Article 69
Right of land-locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

- (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

- (b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
- (c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;
- (d) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70

Right of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. For the purposes of this Part, "geographically disadvantaged States" means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.

3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

- (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
- (b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
- (c) the extent to which other geographically disadvantaged States and land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;
- (d) the nutritional needs of the populations of the respective States.

4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.

5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 71

Non-applicability of articles 69 and 70

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72

Restrictions on transfer of rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals

by lease or licence, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.

2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

Article 73

Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Article 74

Delimitation of the exclusive economic zone between States with opposite or adjacent coasts

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 75

Charts and lists of geographical coordinates

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their

position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

PART VI

CONTINENTAL SHELF

Article 76 *Definition of the continental shelf*

1. The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:
- (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or
 - (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.
- (b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5. The fixed points comprising the line of the outer limits of the continental shelf on the seabed, drawn in accordance with paragraph 4 (a)(i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural

components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

Article 77

Rights of the coastal State over the continental shelf

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 78

Legal status of the superjacent waters and air space and the rights and freedoms of other States

1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

Article 79
Submarine cables and pipelines on the continental shelf

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 80
Artificial islands, installations and structures on the continental shelf

Article 60 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

Article 81
Drilling on the continental shelf

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

Article 82
Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

3. A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis

of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.

Article 83
Delimitation of the continental shelf
between States with opposite or adjacent coasts

1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

Article 84
Charts and lists of geographical coordinates

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

Article 85
Tunnelling

This Part does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

PART VII

HIGH SEAS

SECTION 1. GENERAL PROVISIONS

Article 86

Application of the provisions of this Part

The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58.

Article 87

Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

- (a) freedom of navigation;
- (b) freedom of overflight;
- (c) freedom to lay submarine cables and pipelines, subject to Part VI;
- (d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
- (e) freedom of fishing, subject to the conditions laid down in section 2;
- (f) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

Article 88

Reservation of the high seas for peaceful purposes

The high seas shall be reserved for peaceful purposes.

Article 89

Invalidity of claims of sovereignty over the high seas

No State may validly purport to subject any part of the high seas to its sovereignty.

Article 90

Right of navigation

Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.

Article 91
Nationality of ships

1. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

2. Every State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 92
Status of ships

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 93
*Ships flying the flag of the United Nations, its specialized agencies
and the International Atomic Energy Agency*

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency, flying the flag of the organization.

Article 94
Duties of the flag State

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular every State shall:

(a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and

(b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:

(a) the construction, equipment and seaworthiness of ships;

(b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

(c) the use of signals, the maintenance of communications and the prevention of collisions.

4. Such measures shall include those necessary to ensure:

- (a) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;
- (b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;
- (c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.

7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 95

Immunity of warships on the high seas

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 96

Immunity of ships used only on government non-commercial service

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 97

Penal jurisdiction in matters of collision or any other incident of navigation

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship,

no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 98

Duty to render assistance

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

- (a) to render assistance to any person found at sea in danger of being lost;
- (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;
- (c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

Article 99

Prohibition of the transport of slaves

Every State shall take effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 100

Duty to cooperate in the repression of piracy

All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 101

Definition of piracy

Piracy consists of any of the following acts:

-
- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
 - (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
 - (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Article 102

*Piracy by a warship, government ship or government aircraft
whose crew has mutinied*

The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.

Article 103

Definition of a pirate ship or aircraft

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 104

Retention or loss of the nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 105

Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

*Article 106**Liability for seizure without adequate grounds*

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft for any loss or damage caused by the seizure.

*Article 107**Ships and aircraft which are entitled to seize on account of piracy*

A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

*Article 108**Illicit traffic in narcotic drugs or psychotropic substances*

1. All States shall cooperate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the cooperation of other States to suppress such traffic.

*Article 109**Unauthorized broadcasting from the high seas*

1. All States shall cooperate in the suppression of unauthorized broadcasting from the high seas.

2. For the purposes of this Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

3. Any person engaged in unauthorized broadcasting may be prosecuted before the court of:

- (a) the flag State of the ship;
- (b) the State of registry of the installation;
- (c) the State of which the person is a national;
- (d) any State where the transmissions can be received; or
- (e) any State where authorized radio communication is suffering interference.

4. On the high seas, a State having jurisdiction in accordance with paragraph 3 may, in conformity with article 110, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

Article 110
Right of visit

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 95 and 96, is not justified in boarding it unless there is reasonable ground for suspecting that:

- (a) the ship is engaged in piracy;
- (b) the ship is engaged in the slave trade;
- (c) the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under article 109;
- (d) the ship is without nationality; or
- (e) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

4. These provisions apply *mutatis mutandis* to military aircraft.

5. These provisions also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 111
Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship

pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

- (a) the provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;
- (b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 112

Right to lay submarine cables and pipelines

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

2. Article 79, paragraph 5, applies to such cables and pipelines.

Article 113

Breaking or injury of a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 114

*Breaking or injury by owners of a submarine cable or pipeline
of another submarine cable or pipeline*

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 115

*Indemnity for loss incurred in avoiding injury
to a submarine cable or pipeline*

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

**SECTION 2. CONSERVATION AND MANAGEMENT OF THE
LIVING RESOURCES OF THE HIGH SEAS**

Article 116

Right to fish on the high seas

All States have the right for their nationals to engage in fishing on the high seas subject to:

- (a) their treaty obligations;
- (b) the rights and duties as well as the interests of coastal States provided for, *inter alia*, in article 63, paragraph 2, and articles 64 to 67; and
- (c) the provisions of this section.

Article 117

*Duty of States to adopt with respect to their nationals
measures for the conservation of the living resources of the high seas*

All States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 118

*Cooperation of States in the conservation and management
of living resources*

States shall cooperate with each other in the conservation and management of living resources in the areas of the high seas. States whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall,

as appropriate, cooperate to establish subregional or regional fisheries organizations to this end.

Article 119

Conservation of the living resources of the high seas

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:
 - (a) take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
 - (b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.
2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned.
3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Article 120

Marine mammals

Article 65 also applies to the conservation and management of marine mammals in the high seas.

PART VIII

REGIME OF ISLANDS

Article 121

Regime of islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.
3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

PART IX
ENCLOSED OR SEMI-ENCLOSED SEAS

Article 122
Definition

For the purposes of this Convention, "enclosed or semi-enclosed sea" means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Article 123
Cooperation of States bordering enclosed or semi-enclosed seas

States bordering an enclosed or semi-enclosed sea should cooperate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

- (a) to coordinate the management, conservation, exploration and exploitation of the living resources of the sea;
- (b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;
- (c) to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;
- (d) to invite, as appropriate, other interested States or international organizations to cooperate with them in furtherance of the provisions of this article.

PART X
**RIGHT OF ACCESS OF LAND-LOCKED
STATES TO AND FROM THE SEA
AND FREEDOM OF TRANSIT**

Article 124
Use of terms

1. For the purposes of this Convention:
 - (a) "land-locked State" means a State which has no sea-coast;
 - (b) "transit State" means a State, with or without a sea-coast, situated between a land-locked State and the sea, through whose territory traffic in transit passes;
 - (c) "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey

which begins or terminates within the territory of the land-locked State;

- (d) "means of transport" means:
- (i) railway rolling stock, sea, lake and river craft and road vehicles;
 - (ii) where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 1.

Article 125

Right of access to and from the sea and freedom of transit

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.

2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, subregional or regional agreements.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

Article 126

Exclusion of application of the most-favoured-nation clause

The provisions of this Convention, as well as special agreements relating to the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Article 127

Customs duties, taxes and other charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connection with such traffic.

2. Means of transport in transit and other facilities provided for and used by land-locked States shall not be subject to taxes or charges higher than those levied for the use of means of transport of the transit State.

Article 128

Free zones and other customs facilities

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

*Article 129**Cooperation in the construction and improvement of means of transport*

Where there are no means of transport in transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, the transit States and land-locked States concerned may cooperate in constructing or improving them.

*Article 130**Measures to avoid or eliminate delays
or other difficulties of a technical nature in traffic in transit*

1. Transit States shall take all appropriate measures to avoid delays or other difficulties of a technical nature in traffic in transit.

2. Should such delays or difficulties occur, the competent authorities of the transit States and land-locked States concerned shall cooperate towards their expeditious elimination.

*Article 131**Equal treatment in maritime ports*

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

*Article 132**Grant of greater transit facilities*

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Convention and which are agreed between States Parties to this Convention or granted by a State Party. This Convention also does not preclude such grant of greater facilities in the future.

PART XI**THE AREA****SECTION 1. GENERAL PROVISIONS***Article 133**Use of terms*

For the purposes of this Part:

- (a) "resources" means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules;
- (b) resources, when recovered from the Area, are referred to as "minerals".

Article 134
Scope of this Part

1. This Part applies to the Area.
2. Activities in the Area shall be governed by the provisions of this Part.
3. The requirements concerning deposit of, and publicity to be given to, the charts or lists of geographical coordinates showing the limits referred to in article 1, paragraph 1(1), are set forth in Part VI.
4. Nothing in this article affects the establishment of the outer limits of the continental shelf in accordance with Part VI or the validity of agreements relating to delimitation between States with opposite or adjacent coasts.

Article 135
Legal status of the superjacent waters and air space

Neither this Part nor any rights granted or exercised pursuant thereto shall affect the legal status of the waters superjacent to the Area or that of the air space above those waters.

SECTION 2. PRINCIPLES GOVERNING THE AREA

Article 136
Common heritage of mankind

The Area and its resources are the common heritage of mankind.

Article 137
Legal status of the Area and its resources

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.
2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.
3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Article 138
General conduct of States in relation to the Area

The general conduct of States in relation to the Area shall be in accordance with the provisions of this Part, the principles embodied in the Charter of the United Nations and other rules of international law in the interests of maintaining peace and security and promoting international cooperation and mutual understanding.

*Article 139**Responsibility to ensure compliance and liability for damage*

1. States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part. The same responsibility applies to international organizations for activities in the Area carried out by such organizations.

2. Without prejudice to the rules of international law and Annex III, article 22, damage caused by the failure of a State Party or international organization to carry out its responsibilities under this Part shall entail liability; States Parties or international organizations acting together shall bear joint and several liability. A State Party shall not however be liable for damage caused by any failure to comply with this Part by a person whom it has sponsored under article 153, paragraph 2(b), if the State Party has taken all necessary and appropriate measures to secure effective compliance under article 153, paragraph 4, and Annex III, article 4, paragraph 4.

3. States Parties that are members of international organizations shall take appropriate measures to ensure the implementation of this article with respect to such organizations.

*Article 140**Benefit of mankind*

1. Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.

2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis, in accordance with article 160, paragraph 2(f)(i).

*Article 141**Use of the Area exclusively for peaceful purposes*

The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination and without prejudice to the other provisions of this Part.

*Article 142**Rights and legitimate interests of coastal States*

1. Activities in the Area, with respect to resource deposits in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such deposits lie.

2. Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringement of such rights and interests. In cases where activities in the Area may result in the exploitation of resources lying within national jurisdiction, the prior consent of the coastal State concerned shall be required.

3. Neither this Part nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

Article 143
Marine scientific research

1. Marine scientific research in the Area shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole, in accordance with Part XIII.

2. The Authority may carry out marine scientific research concerning the Area and its resources, and may enter into contracts for that purpose. The Authority shall promote and encourage the conduct of marine scientific research in the Area, and shall coordinate and disseminate the results of such research and analysis when available.

3. States Parties may carry out marine scientific research in the Area. States Parties shall promote international cooperation in marine scientific research in the Area by:

- (a) participating in international programmes and encouraging cooperation in marine scientific research by personnel of different countries and of the Authority;
- (b) ensuring that programmes are developed through the Authority or other international organizations as appropriate for the benefit of developing States and technologically less developed States with a view to:
 - (i) strengthening their research capabilities;
 - (ii) training their personnel and the personnel of the Authority in the techniques and applications of research;
 - (iii) fostering the employment of their qualified personnel in research in the Area;
- (c) effectively disseminating the results of research and analysis when available, through the Authority or other international channels when appropriate.

Article 144
Transfer of technology

1. The Authority shall take measures in accordance with this Convention:

- (a) to acquire technology and scientific knowledge relating to activities in the Area; and
- (b) to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States Parties benefit therefrom.

2. To this end the Authority and States Parties shall cooperate in promoting the transfer of technology and scientific knowledge relating to activities in the Area so that the Enterprise and all States Parties may benefit therefrom. In particular they shall initiate and promote:

- (a) programmes for the transfer of technology to the Enterprise and to developing States with regard to activities in the Area, including, *inter alia*, facilitating the access of the Enterprise and of developing States to the relevant technology, under fair and reasonable terms and conditions;
- (b) measures directed towards the advancement of the technology of the Enterprise and the domestic technology of developing States, particularly by providing opportunities to personnel from the Enterprise and from developing States for training in marine science and technology and for their full participation in activities in the Area.

Article 145

Protection of the marine environment

Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for *inter alia*:

- (a) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;
- (b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Article 146

Protection of human life

With respect to activities in the Area, necessary measures shall be taken to ensure effective protection of human life. To this end the Authority shall adopt appropriate rules, regulations and procedures to supplement existing international law as embodied in relevant treaties.

Article 147

Accommodation of activities in the Area and in the marine environment

1. Activities in the Area shall be carried out with reasonable regard for other activities in the marine environment.
2. Installations used for carrying out activities in the Area shall be subject to the following conditions:
 - (a) such installations shall be erected, emplaced and removed solely in accordance with this Part and subject to the rules, regulations and procedures of the Authority. Due notice must

- be given of the erection, emplacement and removal of such installations, and permanent means for giving warning of their presence must be maintained;
- (b) such installations may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity;
 - (c) safety zones shall be established around such installations with appropriate markings to ensure the safety of both navigation and the installations. The configuration and location of such safety zones shall not be such as to form a belt impeding the lawful access of shipping to particular maritime zones or navigation along international sea lanes;
 - (d) such installations shall be used exclusively for peaceful purposes;
 - (e) such installations do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.
3. Other activities in the marine environment shall be conducted with reasonable regard for activities in the Area.

Article 148

Participation of developing States in activities in the Area

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in this Part, having due regard to their special interests and needs, and in particular to the special need of the land-locked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it.

Article 149

Archaeological and historical objects

All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.

SECTION 3. DEVELOPMENT OF RESOURCES OF THE AREA

Article 150

Policies relating to activities in the Area

Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international cooperation for the over-all development of all countries, especially developing States, and with a view to ensuring:

- (a) the development of the resources of the Area;
- (b) orderly, safe and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in

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- accordance with sound principles of conservation, the avoidance of unnecessary waste;
- (c) the expansion of opportunities for participation in such activities consistent in particular with articles 144 and 148;
 - (d) participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in this Convention;
 - (e) increased availability of the minerals derived from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals;
 - (f) the promotion of just and stable prices remunerative to producers and fair to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand;
 - (g) the enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of monopolization of activities in the Area;
 - (h) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, as provided in article 151;
 - (i) the development of the common heritage for the benefit of mankind as a whole; and
 - (j) conditions of access to markets for the imports of minerals produced from the resources of the Area and for imports of commodities produced from such minerals shall not be more favourable than the most favourable applied to imports from other sources.

Article 151
Production policies

1. (a) Without prejudice to the objectives set forth in article 150 and for the purpose of implementing subparagraph (h) of that article, the Authority, acting through existing forums or such new arrangements or agreements as may be appropriate, in which all interested parties, including both producers and consumers, participate, shall take measures necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the Area, at prices remunerative to producers and fair to consumers. All States Parties shall cooperate to this end.
- (b) The Authority shall have the right to participate in any commodity conference dealing with those commodities and in which all interested parties including both producers and consumers participate. The Authority shall have the right to become a party to any arrangement or agreement resulting from such conferences. Participation of the Authority in any organs established under those arrangements or agreements shall be in respect of production in the Area and in accordance with the relevant rules of those organs.

- (c) The Authority shall carry out its obligations under the arrangements or agreements referred to in this paragraph in a manner which assures a uniform and non-discriminatory implementation in respect of all production in the Area of the minerals concerned. In doing so, the Authority shall act in a manner consistent with the terms of existing contracts and approved plans of work of the Enterprise.
2. (a) During the interim period specified in paragraph 3, commercial production shall not be undertaken pursuant to an approved plan of work until the operator has applied for and has been issued a production authorization by the Authority. Such production authorizations may not be applied for or issued more than five years prior to the planned commencement of commercial production under the plan of work unless, having regard to the nature and timing of project development, the rules, regulations and procedures of the Authority prescribe another period.
- (b) In the application for the production authorization, the operator shall specify the annual quantity of nickel expected to be recovered under the approved plan of work. The application shall include a schedule of expenditures to be made by the operator after he has received the authorization which are reasonably calculated to allow him to begin commercial production on the date planned.
- (c) For the purposes of subparagraphs (a) and (b), the Authority shall establish appropriate performance requirements in accordance with Annex III, article 17.
- (d) The Authority shall issue a production authorization for the level of production applied for unless the sum of that level and the levels already authorized exceeds the nickel production ceiling, as calculated pursuant to paragraph 4 in the year of issuance of the authorization, during any year of planned production falling within the interim period.
- (e) When issued, the production authorization and approved application shall become a part of the approved plan of work.
- (f) If the operator's application for a production authorization is denied pursuant to subparagraph (d), the operator may apply again to the Authority at any time.
3. The interim period shall begin five years prior to 1 January of the year in which the earliest commercial production is planned to commence under an approved plan of work. If the earliest commercial production is delayed beyond the year originally planned, the beginning of the interim period and the production ceiling originally calculated shall be adjusted accordingly. The interim period shall last 25 years or until the end of the Review Conference referred to in article 155 or until the day when such new arrangements or agreements as are referred to in paragraph 1 enter into force, whichever is earliest. The Authority shall resume the power provided in this article for the remainder of the interim period if the said arrangements or agreements should lapse or become ineffective for any reason whatsoever.
4. (a) The production ceiling for any year of the interim period shall be the sum of:
- (i) the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (b),

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- for the year immediately prior to the year of the earliest commercial production and the year immediately prior to the commencement of the interim period; and
- (ii) sixty per cent of the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (b), for the year for which the production authorization is being applied for and the year immediately prior to the year of the earliest commercial production.
- (b) For the purposes of subparagraph (a):
- (i) trend line values used for computing the nickel production ceiling shall be those annual nickel consumption values on a trend line computed during the year in which a production authorization is issued. The trend line shall be derived from a linear regression of the logarithms of actual nickel consumption for the most recent 15-year period for which such data are available, time being the independent variable. This trend line shall be referred to as the original trend line;
 - (ii) if the annual rate of increase of the original trend line is less than 3 per cent, then the trend line used to determine the quantities referred to in subparagraph (a) shall instead be one passing through the original trend line at the value for the first year of the relevant 15-year period, and increasing at 3 per cent annually; provided however that the production ceiling established for any year of the interim period may not in any case exceed the difference between the original trend line value for that year and the original trend line value for the year immediately prior to the commencement of the interim period.
5. The Authority shall reserve to the Enterprise for its initial production a quantity of 38,000 metric tonnes of nickel from the available production ceiling calculated pursuant to paragraph 4.
6. (a) An operator may in any year produce less than or up to 8 per cent more than the level of annual production of minerals from polymetallic nodules specified in his production authorization, provided that the over-all amount of production shall not exceed that specified in the authorization. Any excess over 8 per cent and up to 20 per cent in any year, or any excess in the first and subsequent years following two consecutive years in which excesses occur, shall be negotiated with the Authority, which may require the operator to obtain a supplementary production authorization to cover additional production.
- (b) Applications for such supplementary production authorizations shall be considered by the Authority only after all pending applications by operators who have not yet received production authorizations have been acted upon and due account has been taken of other likely applicants. The Authority shall be guided by the principle of not exceeding the total production allowed under the production ceiling in any year of the interim period. It shall not authorize the production under any plan of work of a quantity in excess of 46,500 metric tonnes of nickel per year.

7. The levels of production of other metals such as copper, cobalt and manganese extracted from the polymetallic nodules that are recovered pursuant to a production authorization should not be higher than those which would have been produced had the operator produced the maximum level of nickel from those nodules pursuant to this article. The Authority shall establish rules, regulations and procedures pursuant to Annex III, article 17, to implement this paragraph.

8. Rights and obligations relating to unfair economic practices under relevant multilateral trade agreements shall apply to the exploration for and exploitation of minerals from the Area. In the settlement of disputes arising under this provision, States Parties which are Parties to such multilateral trade agreements shall have recourse to the dispute settlement procedures of such agreements.

9. The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from polymetallic nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 8.

10. Upon the recommendation of the Council on the basis of advice from the Economic Planning Commission, the Assembly shall establish a system of compensation or take other measures of economic adjustment assistance including cooperation with specialized agencies and other international organizations to assist developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. The Authority on request shall initiate studies on the problems of those States which are likely to be most seriously affected with a view to minimizing their difficulties and assisting them in their economic adjustment.

Article 152

Exercise of powers and functions by the Authority

1. The Authority shall avoid discrimination in the exercise of its powers and functions, including the granting of opportunities for activities in the Area.

2. Nevertheless, special consideration for developing States, including particular consideration for the land-locked and geographically disadvantaged among them, specifically provided for in this Part shall be permitted.

Article 153

System of exploration and exploitation

1. Activities in the Area shall be organized, carried out and controlled by the Authority on behalf of mankind as a whole in accordance with this article as well as other relevant provisions of this Part and the relevant Annexes, and the rules, regulations and procedures of the Authority.

2. Activities in the Area shall be carried out as prescribed in paragraph 3:

- (a) by the Enterprise, and
- (b) in association with the Authority by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any

group of the foregoing which meets the requirements provided in this Part and in Annex III.

3. Activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III and approved by the Council after review by the Legal and Technical Commission. In the case of activities in the Area carried out as authorized by the Authority by the entities specified in paragraph 2(b), the plan of work shall, in accordance with Annex III, article 3, be in the form of a contract. Such contracts may provide for joint arrangements in accordance with Annex III, article 11.

4. The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part and the Annexes relating thereto, and the rules, regulations and procedures of the Authority, and the plans of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139.

5. The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it thereunder or under any contract. The Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area.

6. A contract under paragraph 3 shall provide for security of tenure. Accordingly, the contract shall not be revised, suspended or terminated except in accordance with Annex III, articles 18 and 19.

Article 154
Periodic review

Every five years from the entry into force of this Convention, the Assembly shall undertake a general and systematic review of the manner in which the international regime of the Area established in this Convention has operated in practice. In the light of this review the Assembly may take, or recommend that other organs take, measures in accordance with the provisions and procedures of this Part and the Annexes relating thereto which will lead to the improvement of the operation of the regime.

Article 155
The Review Conference

1. Fifteen years from 1 January of the year in which the earliest commercial production commences under an approved plan of work, the Assembly shall convene a conference for the review of those provisions of this Part and the relevant Annexes which govern the system of exploration and exploitation of the resources of the Area. The Review Conference shall consider in detail, in the light of the experience acquired during that period:

- (a) whether the provisions of this Part which govern the system of exploration and exploitation of the resources of the Area have achieved their aims in all respects, including whether they have benefited mankind as a whole;
- (b) whether, during the 15-year period, reserved areas have been exploited in an effective and balanced manner in comparison with non-reserved areas;

- (c) whether the development and use of the Area and its resources have been undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade;
- (d) whether monopolization of activities in the Area has been prevented;
- (e) whether the policies set forth in articles 150 and 151 have been fulfilled; and
- (f) whether the system has resulted in the equitable sharing of benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing States.

2. The Review Conference shall ensure the maintenance of the principle of the common heritage of mankind, the international regime designed to ensure equitable exploitation of the resources of the Area for the benefit of all countries, especially the developing States, and an Authority to organize, conduct and control activities in the Area. It shall also ensure the maintenance of the principles laid down in this Part with regard to the exclusion of claims or exercise of sovereignty over any part of the Area, the rights of States and their general conduct in relation to the Area, and their participation in activities in the Area in conformity with this Convention, the prevention of monopolization of activities in the Area, the use of the Area exclusively for peaceful purposes, economic aspects of activities in the Area, marine scientific research, transfer of technology, protection of the marine environment, protection of human life, rights of coastal States, the legal status of the waters superjacent to the Area and that of the air space above those waters and accommodation between activities in the Area and other activities in the marine environment.

3. The decision-making procedure applicable at the Review Conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea. The Conference shall make every effort to reach agreement on any amendments by way of consensus and there should be no voting on such matters until all efforts at achieving consensus have been exhausted.

4. If, five years after its commencement, the Review Conference has not reached agreement on the system of exploration and exploitation of the resources of the Area, it may decide during the ensuing 12 months, by a three-fourths majority of the States Parties, to adopt and submit to the States Parties for ratification or accession such amendments changing or modifying the system as it determines necessary and appropriate. Such amendments shall enter into force for all States Parties 12 months after the deposit of instruments of ratification or accession by three fourths of the States Parties.

5. Amendments adopted by the Review Conference pursuant to this article shall not affect rights acquired under existing contracts.

SECTION 4. THE AUTHORITY

SUBSECTION A. GENERAL PROVISIONS

Article 156

Establishment of the Authority

1. There is hereby established the International Seabed Authority, which shall function in accordance with this Part.
2. All States Parties are *ipso facto* members of the Authority.
3. Observers at the Third United Nations Conference on the Law of the Sea who have signed the Final Act and who are not referred to in article 305, paragraph 1(c), (d), (e) or (f), shall have the right to participate in the Authority as observers, in accordance with its rules, regulations and procedures.
4. The seat of the Authority shall be in Jamaica.
5. The Authority may establish such regional centres or offices as it deems necessary for the exercise of its functions.

Article 157

Nature and fundamental principles of the Authority

1. The Authority is the organization through which States Parties shall, in accordance with this Part, organize and control activities in the Area, particularly with a view to administering the resources of the Area.
2. The powers and functions of the Authority shall be those expressly conferred upon it by this Convention. The Authority shall have such incidental powers, consistent with this Convention, as are implicit in and necessary for the exercise of those powers and functions with respect to activities in the Area.
3. The Authority is based on the principle of the sovereign equality of all its members.
4. All members of the Authority shall fulfil in good faith the obligations assumed by them in accordance with this Part in order to ensure to all of them the rights and benefits resulting from membership.

Article 158

Organs of the Authority

1. There are hereby established, as the principal organs of the Authority, an Assembly, a Council and a Secretariat.
2. There is hereby established the Enterprise, the organ through which the Authority shall carry out the functions referred to in article 170, paragraph 1.
3. Such subsidiary organs as may be found necessary may be established in accordance with this Part.
4. Each principal organ of the Authority and the Enterprise shall be responsible for exercising those powers and functions which are conferred upon it. In exercising such powers and functions each organ shall avoid taking any action which may derogate from or impede the exercise of specific powers and functions conferred upon another organ.

SUBSECTION B. THE ASSEMBLY*Article 159**Composition, procedure and voting*

1. The Assembly shall consist of all the members of the Authority. Each member shall have one representative in the Assembly, who may be accompanied by alternates and advisers.

2. The Assembly shall meet in regular annual sessions and in such special sessions as may be decided by the Assembly, or convened by the Secretary-General at the request of the Council or of a majority of the members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise decided by the Assembly.

4. The Assembly shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its President and such other officers as may be required. They shall hold office until a new President and other officers are elected at the next regular session.

5. A majority of the members of the Assembly shall constitute a quorum.

6. Each member of the Assembly shall have one vote.

7. Decisions on questions of procedure, including decisions to convene special sessions of the Assembly, shall be taken by a majority of the members present and voting.

8. Decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members participating in the session. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Assembly by the majority required for decisions on questions of substance.

9. When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Assembly, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.

10. Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with this Convention of a proposal before the Assembly on any matter, the Assembly shall request the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

*Article 160**Powers and functions*

1. The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general

policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority.

2. In addition, the powers and functions of the Assembly shall be:

- (a) to elect the members of the Council in accordance with article 161;
- (b) to elect the Secretary-General from among the candidates proposed by the Council;
- (c) to elect, upon the recommendation of the Council, the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;
- (d) to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of these subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs;
- (e) to assess the contributions of members to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses;
- (f)
 - (i) to consider and approve, upon the recommendation of the Council, the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status. If the Assembly does not approve the recommendations of the Council, the Assembly shall return them to the Council for reconsideration in the light of the views expressed by the Assembly;
 - (ii) to consider and approve the rules, regulations and procedures of the Authority, and any amendments thereto, provisionally adopted by the Council pursuant to article 162, paragraph 2 (o)(ii). These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area, the financial management and internal administration of the Authority, and, upon the recommendation of the Governing Board of the Enterprise, to the transfer of funds from the Enterprise to the Authority;
- (g) to decide upon the equitable sharing of financial and other economic benefits derived from activities in the Area, consistent with this Convention and the rules, regulations and procedures of the Authority;
- (h) to consider and approve the proposed annual budget of the Authority submitted by the Council;
- (i) to examine periodic reports from the Council and from the Enterprise and special reports requested from the Council or any other organ of the Authority;

- (j) to initiate studies and make recommendations for the purpose of promoting international cooperation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;
- (k) to consider problems of a general nature in connection with activities in the Area arising in particular for developing States, as well as those problems for States in connection with activities in the Area that are due to their geographical location, particularly for land-locked and geographically disadvantaged States;
- (l) to establish, upon the recommendation of the Council, on the basis of advice from the Economic Planning Commission, a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;
- (m) to suspend the exercise of rights and privileges of membership pursuant to article 185;
- (n) to discuss any question or matter within the competence of the Authority and to decide as to which organ of the Authority shall deal with any such question or matter not specifically entrusted to a particular organ, consistent with the distribution of powers and functions among the organs of the Authority.

SUBSECTION C. THE COUNCIL

Article 161

Composition, procedure and voting

1. The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:
 - (a) four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent of total world consumption or have had net imports of more than 2 per cent of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one State from the Eastern European (Socialist) region, as well as the largest consumer;
 - (b) four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals, including at least one State from the Eastern European (Socialist) region;
 - (c) four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;
 - (d) six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, States which are major importers of the categories of minerals

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- to be derived from the Area, States which are potential producers of such minerals, and least developed States;
- (e) eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.
2. In electing the members of the Council in accordance with paragraph 1, the Assembly shall ensure that:
- (a) land-locked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in the Assembly;
 - (b) coastal States, especially developing States, which do not qualify under paragraph 1(a), (b), (c) or (d) are represented to a degree which is reasonably proportionate to their representation in the Assembly;
 - (c) each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by that group.
3. Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in paragraph 1 shall be two years.
4. Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.
5. The Council shall function at the seat of the Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.
6. A majority of the members of the Council shall constitute a quorum.
7. Each member of the Council shall have one vote.
8. (a) Decisions on questions of procedure shall be taken by a majority of the members present and voting.
- (b) Decisions on questions of substance arising under the following provisions shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (f); (g); (h); (i); (n); (p); (v); article 191.
 - (c) Decisions on questions of substance arising under the following provisions shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (a); (b); (c); (d); (e); (l); (q); (r); (s); (t); (u) in cases of non-compliance by a contractor or a sponsor; (w) provided that orders issued thereunder may be binding for not more than 30 days unless confirmed by a decision taken in accordance with subparagraph (d); article 162, paragraph 2, subparagraphs (x); (y); (z); article 163, paragraph 2; article 174, paragraph 3; Annex IV, article 11.

- (d) Decisions on questions of substance arising under the following provisions shall be taken by consensus: article 162, paragraph 2(m) and (o); adoption of amendments to Part XI.
 - (e) For the purposes of subparagraphs (d), (f) and (g), "consensus" means the absence of any formal objection. Within 14 days of the submission of a proposal to the Council, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within 14 days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.
 - (f) Decisions on questions not listed above which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the subparagraphs of this paragraph specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the subparagraph determined by the Council if possible in advance, by consensus.
 - (g) When the issue arises as to whether a question is within subparagraph (a), (b), (c) or (d), the question shall be treated as being within the subparagraph requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.
9. The Council shall establish a procedure whereby a member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

*Article 162
Powers and functions*

1. The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with this Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.
2. In addition, the Council shall:
 - (a) supervise and coordinate the implementation of the provisions of this Part on all questions and matters within the competence of the Authority and invite the attention of the Assembly to cases of non-compliance;
 - (b) propose to the Assembly a list of candidates for the election of the Secretary-General;

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- (c) recommend to the Assembly candidates for the election of the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;
 - (d) establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs provided that due account shall be taken of the principle of equitable geographical distribution and of special interests;
 - (e) adopt its rules of procedure including the method of selecting its president;
 - (f) enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly;
 - (g) consider the reports of the Enterprise and transmit them to the Assembly with its recommendations;
 - (h) present to the Assembly annual reports and such special reports as the Assembly may request;
 - (i) issue directives to the Enterprise in accordance with article 170;
 - (j) approve plans of work in accordance with Annex III, article 6. The Council shall act upon each plan of work within 60 days of its submission by the Legal and Technical Commission at a session of the Council in accordance with the following procedures:
 - (i) if the Commission recommends the approval of a plan of work, it shall be deemed to have been approved by the Council if no member of the Council submits in writing to the President within 14 days a specific objection alleging non-compliance with the requirements of Annex III, article 6. If there is an objection, the conciliation procedure set forth in article 161, paragraph 8(e), shall apply. If, at the end of the conciliation procedure, the objection is still maintained, the plan of work shall be deemed to have been approved by the Council unless the Council disapproves it by consensus among its members excluding any State or States making the application or sponsoring the applicant;
 - (ii) if the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may approve the plan of work by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members participating in the session;
 - (k) approve plans of work submitted by the Enterprise in accordance with Annex IV, article 12, applying, *mutatis mutandis*, the procedures set forth in subparagraph (j);
 - (l) exercise control over activities in the Area in accordance with article 153, paragraph 4, and the rules, regulations and procedures of the Authority;
 - (m) take, upon the recommendation of the Economic Planning Commission, necessary and appropriate measures in accordance

with article 150, subparagraph (h), to provide protection from the adverse economic effects specified therein;

- (n) make recommendations to the Assembly, on the basis of advice from the Economic Planning Commission, for a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;
- (o) (i) recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of the developing States and peoples who have not attained full independence or other self-governing status;
(ii) adopt and apply provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area and the financial management and internal administration of the Authority. Priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules. Rules, regulations and procedures for the exploration for and exploitation of any resource other than polymetallic nodules shall be adopted within three years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource. All rules, regulations and procedures shall remain in effect on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly;
- (p) review the collection of all payments to be made by or to the Authority in connection with operations pursuant to this Part;
- (q) make the selection from among applicants for production authorizations pursuant to Annex III, article 7, where such selection is required by that provision;
- (r) submit the proposed annual budget of the Authority to the Assembly for its approval;
- (s) make recommendations to the Assembly concerning policies on any question or matter within the competence of the Authority;
- (t) make recommendations to the Assembly concerning suspension of the exercise of the rights and privileges of membership pursuant to article 185;
- (u) institute proceedings on behalf of the Authority before the Seabed Disputes Chamber in cases of non-compliance;
- (v) notify the Assembly upon a decision by the Seabed Disputes Chamber in proceedings instituted under subparagraph (u), and make any recommendations which it may find appropriate with respect to measures to be taken;

- (w) issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;
- (x) disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;
- (y) establish a subsidiary organ for the elaboration of draft financial rules, regulations and procedures relating to:
 - (i) financial management in accordance with articles 171 to 175; and
 - (ii) financial arrangements in accordance with Annex III, article 13 and article 17, paragraph 1(c);
- (z) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with.

Article 163
Organs of the Council

1. There are hereby established the following organs of the Council:
 - (a) an Economic Planning Commission;
 - (b) a Legal and Technical Commission.
2. Each Commission shall be composed of 15 members, elected by the Council from among the candidates nominated by the States Parties. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency.
3. Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions.
4. In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests.
5. No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission.
6. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term.
7. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of the term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest.
8. Members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commissions upon which they serve, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

9. Each Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt.

10. Each Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions.

11. The decision-making procedures of the Commissions shall be established by the rules, regulations and procedures of the Authority. Recommendations to the Council shall, where necessary, be accompanied by a summary on the divergencies of opinion in the Commission.

12. Each Commission shall normally function at the seat of the Authority and shall meet as often as is required for the efficient exercise of its functions.

13. In the exercise of its functions, each Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation.

Article 164
The Economic Planning Commission

1. Members of the Economic Planning Commission shall have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies.

2. The Commission shall:

- (a) propose, upon the request of the Council, measures to implement decisions relating to activities in the Area taken in accordance with this Convention;
- (b) review the trends of and the factors affecting supply, demand and prices of minerals which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them;
- (c) examine any situation likely to lead to the adverse effects referred to in article 150, subparagraph (h), brought to its attention by the State Party or States Parties concerned, and make appropriate recommendations to the Council;
- (d) propose to the Council for submission to the Assembly, as provided in article 151, paragraph 10, a system of compensation or other measures of economic adjustment assistance for developing States which suffer adverse effects caused by activities in the Area. The Commission shall make the recommendations to the Council that are necessary for the application of the system or other measures adopted by the Assembly in specific cases.

Article 165
The Legal and Technical Commission

1. Members of the Legal and Technical Commission shall have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.

2. The Commission shall:

- (a) make recommendations with regard to the exercise of the Authority's functions upon the request of the Council;
- (b) review formal written plans of work for activities in the Area in accordance with article 153, paragraph 3, and submit appropriate recommendations to the Council. The Commission shall base its recommendations solely on the grounds stated in Annex III and shall report fully thereon to the Council;
- (c) supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or State or States concerned and report to the Council;
- (d) prepare assessments of the environmental implications of activities in the Area;
- (e) make recommendations to the Council on the protection of the marine environment, taking into account the views of recognized experts in that field;
- (f) formulate and submit to the Council the rules, regulations and procedures referred to in article 162, paragraph 2(o), taking into account all relevant factors including assessments of the environmental implications of activities in the Area;
- (g) keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;
- (h) make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and coordinate the implementation of the monitoring programme approved by the Council;
- (i) recommend to the Council that proceedings be instituted on behalf of the Authority before the Seabed Disputes Chamber, in accordance with this Part and the relevant Annexes taking into account particularly article 187;
- (j) make recommendations to the Council with respect to measures to be taken, upon a decision by the Seabed Disputes Chamber in proceedings instituted in accordance with subparagraph (i);
- (k) make recommendations to the Council to issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area. Such

- recommendations shall be taken up by the Council on a priority basis;
- (l) make recommendations to the Council to disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;
 - (m) make recommendations to the Council regarding the direction and supervision of a staff of inspectors who shall inspect activities in the Area to determine whether the provisions of this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with;
 - (n) calculate the production ceiling and issue production authorizations on behalf of the Authority pursuant to article 151, paragraphs 2 to 7, following any necessary selection among applicants for production authorizations by the Council in accordance with Annex III, article 7.
3. The members of the Commission shall, upon request by any State Party or other party concerned, be accompanied by a representative of such State or other party concerned when carrying out their function of supervision and inspection.

SUBSECTION D. THE SECRETARIAT

Article 166 The Secretariat

1. The Secretariat of the Authority shall comprise a Secretary-General and such staff as the Authority may require.
2. The Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.
3. The Secretary-General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary-General by these organs.
4. The Secretary-General shall make an annual report to the Assembly on the work of the Authority.

Article 167 The staff of the Authority

1. The staff of the Authority shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority.
2. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.
3. The staff shall be appointed by the Secretary-General. The terms and conditions on which they shall be appointed, remunerated and dismissed

shall be in accordance with the rules, regulations and procedures of the Authority.

Article 168
International character of the Secretariat

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. Any violation of responsibilities by a staff member shall be submitted to the appropriate administrative tribunal as provided in the rules, regulations and procedures of the Authority.

2. The Secretary-General and the staff shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

3. Violations of the obligations of a staff member of the Authority set forth in paragraph 2 shall, on the request of a State Party affected by such violation, or a natural or juridical person, sponsored by a State Party as provided in article 153, paragraph 2(b), and affected by such violation, be submitted by the Authority against the staff member concerned to a tribunal designated by the rules, regulations and procedures of the Authority. The Party affected shall have the right to take part in the proceedings. If the tribunal so recommends, the Secretary-General shall dismiss the staff member concerned.

4. The rules, regulations and procedures of the Authority shall contain such provisions as are necessary to implement this article.

Article 169
*Consultation and cooperation with international
and non-governmental organizations*

1. The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations.

2. Any organization with which the Secretary-General has entered into an arrangement under paragraph 1 may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of these organs. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

3. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in paragraph 1 on subjects in which they have special competence and which are related to the work of the Authority.

SUBSECTION E. THE ENTERPRISE*Article 170
The Enterprise*

1. The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2(a), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is provided for in the Statute set forth in Annex IV. The Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority, as well as the general policies established by the Assembly, and shall be subject to the directives and control of the Council.

3. The Enterprise shall have its principal place of business at the seat of the Authority.

4. The Enterprise shall, in accordance with article 173, paragraph 2, and Annex IV, article 11, be provided with such funds as it may require to carry out its functions, and shall receive technology as provided in article 144 and other relevant provisions of this Convention.

SUBSECTION F. FINANCIAL ARRANGEMENTS OF THE AUTHORITY*Article 171
Funds of the Authority*

The funds of the Authority shall include:

- (a) assessed contributions made by members of the Authority in accordance with article 160, paragraph 2(e);
- (b) funds received by the Authority pursuant to Annex III, article 13, in connection with activities in the Area;
- (c) funds transferred from the Enterprise in accordance with Annex IV, article 10;
- (d) funds borrowed pursuant to article 174;
- (e) voluntary contributions made by members or other entities; and
- (f) payments to a compensation fund, in accordance with article 151, paragraph 10, whose sources are to be recommended by the Economic Planning Commission.

*Article 172
Annual budget of the Authority*

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council. The Council shall consider the proposed annual budget and submit it to the Assembly, together with any recommendations thereon. The Assembly shall consider and approve the proposed annual budget in accordance with article 160, paragraph 2(h).

Article 173
Expenses of the Authority

1. The contributions referred to in article 171, subparagraph (a), shall be paid into a special account to meet the administrative expenses of the Authority until the Authority has sufficient funds from other sources to meet those expenses.

2. The administrative expenses of the Authority shall be a first call upon the funds of the Authority. Except for the assessed contributions referred to in article 171, subparagraph (a), the funds which remain after payment of administrative expenses may, *inter alia*:

- (a) be shared in accordance with article 140 and article 160, paragraph 2(g);
- (b) be used to provide the Enterprise with funds in accordance with article 170, paragraph 4;
- (c) be used to compensate developing States in accordance with article 151, paragraph 10, and article 160, paragraph 2(l).

Article 174
Borrowing power of the Authority

1. The Authority shall have the power to borrow funds.
2. The Assembly shall prescribe the limits on the borrowing power of the Authority in the financial regulations adopted pursuant to article 160, paragraph 2(f).
3. The Council shall exercise the borrowing power of the Authority.
4. States Parties shall not be liable for the debts of the Authority.

Article 175
Annual audit

The records, books and accounts of the Authority, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Assembly.

**SUBSECTION G. LEGAL STATUS, PRIVILEGES AND
IMMUNITIES**

Article 176
Legal status

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 177
Privileges and immunities

To enable the Authority to exercise its functions, it shall enjoy in the territory of each State Party the privileges and immunities set forth in this subsection. The privileges and immunities relating to the Enterprise shall be those set forth in Annex IV, article 13.

Article 178
Immunity from legal process

The Authority, its property and assets, shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case.

Article 179
Immunity from search and any form of seizure

The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Article 180
Exemption from restrictions, regulations, controls and moratoria

The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature.

Article 181
Archives and official communications of the Authority

1. The archives of the Authority, wherever located, shall be inviolable.
2. Proprietary data, industrial secrets or similar information and personnel records shall not be placed in archives which are open to public inspection.
3. With regard to its official communications, the Authority shall be accorded by each State Party treatment no less favourable than that accorded by that State to other international organizations.

Article 182
Privileges and immunities of certain persons connected with the Authority

Representatives of States Parties attending meetings of the Assembly, the Council or organs of the Assembly or the Council, and the Secretary-General and staff of the Authority, shall enjoy in the territory of each State Party:

- (a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or the Authority, as appropriate, expressly waives this immunity in a particular case;
- (b) if they are not nationals of that State Party, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by that State to the representatives, officials and employees of comparable rank of other States Parties.

Article 183
Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by this

Convention, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by States Parties to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of the State Party which granted the exemption, except under conditions agreed with that State Party.

3. No tax shall be levied by States Parties on or in respect of salaries and emoluments paid or any other form of payment made by the Authority to the Secretary-General and staff of the Authority, as well as experts performing missions for the Authority, who are not their nationals.

SUBSECTION H. SUSPENSION OF THE EXERCISE OF RIGHTS AND PRIVILEGES OF MEMBERS

Article 184

Suspension of the exercise of voting rights

A State Party which is in arrears in the payment of its financial contributions to the Authority shall have no vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 185

Suspension of exercise of rights and privileges of membership

1. A State Party which has grossly and persistently violated the provisions of this Part may be suspended from the exercise of the rights and privileges of membership by the Assembly upon the recommendation of the Council.

2. No action may be taken under paragraph 1 until the Seabed Disputes Chamber has found that a State Party has grossly and persistently violated the provisions of this Part.

SECTION 5. SETTLEMENT OF DISPUTES AND ADVISORY OPINIONS

Article 186

Seabed Disputes Chamber of the International Tribunal for the Law of the Sea

The establishment of the Seabed Disputes Chamber and the manner in which it shall exercise its jurisdiction shall be governed by the provisions of this section, of Part XV and of Annex VI.

Article 187
Jurisdiction of the Seabed Disputes Chamber

The Seabed Disputes Chamber shall have jurisdiction under this Part and the Annexes relating thereto in disputes with respect to activities in the Area falling within the following categories:

- (a) disputes between States Parties concerning the interpretation or application of this Part and the Annexes relating thereto;
- (b) disputes between a State Party and the Authority concerning:
 - (i) acts or omissions of the Authority or of a State Party alleged to be in violation of this Part or the Annexes relating thereto or of rules, regulations and procedures of the Authority adopted in accordance therewith; or
 - (ii) acts of the Authority alleged to be in excess of jurisdiction or a misuse of power;
- (c) disputes between parties to a contract, being States Parties, the Authority or the Enterprise, state enterprises and natural or juridical persons referred to in article 153, paragraph 2(b), concerning:
 - (i) the interpretation or application of a relevant contract or a plan of work; or
 - (ii) acts or omissions of a party to the contract relating to activities in the Area and directed to the other party or directly affecting its legitimate interests;
- (d) disputes between the Authority and a prospective contractor who has been sponsored by a State as provided in article 153, paragraph 2(b), and has duly fulfilled the conditions referred to in Annex III, article 4, paragraph 6, and article 13, paragraph 2, concerning the refusal of a contract or a legal issue arising in the negotiation of the contract;
- (e) disputes between the Authority and a State Party, a state enterprise or a natural or juridical person sponsored by a State Party as provided for in article 153, paragraph 2(b), where it is alleged that the Authority has incurred liability as provided in Annex III, article 22;
- (f) any other disputes for which the jurisdiction of the Chamber is specifically provided in this Convention.

Article 188
Submission of disputes to a special chamber of the
International Tribunal for the Law of the Sea
or an ad hoc chamber of the Seabed Disputes Chamber
or to binding commercial arbitration

1. Disputes between States Parties referred to in article 187, subparagraph (a), may be submitted:
 - (a) at the request of the parties to the dispute, to a special chamber of the International Tribunal for the Law of the Sea to be formed in accordance with Annex VI, articles 15 and 17; or
 - (b) at the request of any party to the dispute, to an ad hoc chamber of the Seabed Disputes Chamber to be formed in accordance with Annex VI, article 36.
2. (a) Disputes concerning the interpretation or application of a contract referred to in article 187, subparagraph (c)(i), shall be

submitted, at the request of any party to the dispute, to binding commercial arbitration, unless the parties otherwise agree. A commercial arbitral tribunal to which the dispute is submitted shall have no jurisdiction to decide any question of interpretation of this Convention. When the dispute also involves a question of the interpretation of Part XI and the Annexes relating thereto, with respect to activities in the Area, that question shall be referred to the Seabed Disputes Chamber for a ruling.

- (b) If, at the commencement of or in the course of such arbitration, the arbitral tribunal determines, either at the request of any party to the dispute or *proprio motu*, that its decision depends upon a ruling of the Seabed Disputes Chamber, the arbitral tribunal shall refer such question to the Seabed Disputes Chamber for such ruling. The arbitral tribunal shall then proceed to render its award in conformity with the ruling of the Seabed Disputes Chamber.
- (c) In the absence of a provision in the contract on the arbitration procedure to be applied in the dispute, the arbitration shall be conducted in accordance with the UNCITRAL Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority, unless the parties to the dispute otherwise agree.

Article 189
Limitation on jurisdiction
with regard to decisions of the Authority

The Seabed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part; in no case shall it substitute its discretion for that of the Authority. Without prejudice to article 191, in exercising its jurisdiction pursuant to article 187, the Seabed Disputes Chamber shall not pronounce itself on the question of whether any rules, regulations and procedures of the Authority are in conformity with this Convention, nor declare invalid any such rules, regulations and procedures. Its jurisdiction in this regard shall be confined to deciding claims that the application of any rules, regulations and procedures of the Authority in individual cases would be in conflict with the contractual obligations of the parties to the dispute or their obligations under this Convention, claims concerning excess of jurisdiction or misuse of power, and to claims for damages to be paid or other remedy to be given to the party concerned for the failure of the other party to comply with its contractual obligations or its obligations under this Convention.

Article 190
Participation and appearance
of sponsoring States Parties in proceedings

1. If a natural or juridical person is a party to a dispute referred to in article 187, the sponsoring State shall be given notice thereof and shall have the right to participate in the proceedings by submitting written or oral statements.

2. If an action is brought against a State Party by a natural or juridical person sponsored by another State Party in a dispute referred to in article 187, subparagraph (c), the respondent State may request the State sponsoring that person to appear in the proceedings on behalf of that person. Failing such appearance, the respondent State may arrange to be represented by a juridical person of its nationality.

Article 191
Advisory opinions

The Seabed Disputes Chamber shall give advisory opinions at the request of the Assembly or the Council on legal questions arising within the scope of their activities. Such opinions shall be given as a matter of urgency.

PART XII
PROTECTION AND PRESERVATION
OF THE MARINE ENVIRONMENT

SECTION 1. GENERAL PROVISIONS

Article 192
General obligation

States have the obligation to protect and preserve the marine environment.

Article 193
Sovereign right of States to exploit their natural resources

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Article 194
Measures to prevent, reduce and control pollution
of the marine environment

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, *inter alia*, those designed to minimize to the fullest possible extent:

- (a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;
- (b) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;
- (c) pollution from installations and devices used in exploration or exploitation of the natural resources of the seabed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;
- (d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195

Duty not to transfer damage or hazards or transform one type of pollution into another

In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196

Use of technologies or introduction of alien or new species

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

SECTION 2. GLOBAL AND REGIONAL COOPERATION*Article 197**Cooperation on a global or regional basis*

States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

*Article 198**Notification of imminent or actual damage*

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

*Article 199**Contingency plans against pollution*

In the cases referred to in article 198, States in the area affected, in accordance with their capabilities, and the competent international organizations shall cooperate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

*Article 200**Studies, research programmes and exchange of information and data*

States shall cooperate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

*Article 201**Scientific criteria for regulations*

In the light of the information and data acquired pursuant to article 200, States shall cooperate, directly or through competent international organizations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

SECTION 3. TECHNICAL ASSISTANCE

Article 202

Scientific and technical assistance to developing States

States shall, directly or through competent international organizations:

- (a) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Such assistance shall include, *inter alia*:
 - (i) training of their scientific and technical personnel;
 - (ii) facilitating their participation in relevant international programmes;
 - (iii) supplying them with necessary equipment and facilities;
 - (iv) enhancing their capacity to manufacture such equipment;
 - (v) advice on and developing facilities for research, monitoring, educational and other programmes;
- (b) provide appropriate assistance, especially to developing States, for the minimization of the effects of major incidents which may cause serious pollution of the marine environment;
- (c) provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.

Article 203

Preferential treatment for developing States

Developing States shall, for the purposes of prevention, reduction and control of pollution of the marine environment or minimization of its effects, be granted preference by international organizations in:

- (a) the allocation of appropriate funds and technical assistance; and
- (b) the utilization of their specialized services.

SECTION 4. MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204

Monitoring of the risks or effects of pollution

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment.

2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205

Publication of reports

States shall publish reports of the results obtained pursuant to article 204 or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all States.

Article 206
Assessment of potential effects of activities

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

**SECTION 5. INTERNATIONAL RULES AND NATIONAL
LEGISLATION
TO PREVENT, REDUCE AND CONTROL
POLLUTION OF THE MARINE ENVIRONMENT**

Article 207
Pollution from land-based sources

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208
Pollution from seabed activities subject to national jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

5. States, acting especially through competent international organizations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

Article 209

Pollution from activities in the Area

1. International rules, regulations and procedures shall be established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area. Such rules, regulations and procedures shall be re-examined from time to time as necessary.

2. Subject to the relevant provisions of this section, States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. The requirements of such laws and regulations shall be no less effective than the international rules, regulations and procedures referred to in paragraph 1.

Article 210

Pollution by dumping

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall ensure that dumping is not carried out without the permission of the competent authorities of States.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the coastal State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.

6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

Article 211
Pollution from vessels

1. States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption, in the same manner, wherever appropriate, of routing systems designed to minimize the threat of accidents which might cause pollution of the marine environment, including the coastline, and pollution damage to the related interests of coastal States. Such rules and standards shall, in the same manner, be re-examined from time to time as necessary.

2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

3. States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off-shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization. Whenever such requirements are established in identical form by two or more coastal States in an endeavour to harmonize policy, the communication shall indicate which States are participating in such cooperative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such cooperative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such cooperative arrangements and, if so, to indicate whether it complies with the port entry requirements of that State. This article is without prejudice to the continued exercise by a vessel of its right of innocent passage or to the application of article 25, paragraph 2.

4. Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, section 3, not hamper innocent passage of foreign vessels.

5. Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their exclusive economic zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

6. (a) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its

utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.

- (b) The coastal States shall publish the limits of any such particular, clearly defined area.
- (c) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organization thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of the communication to the organization, provided that the organization agrees within 12 months after the submission of the communication.

7. The international rules and standards referred to in this article should include *inter alia* those relating to prompt notification to coastal States, whose coastline or related interests may be affected by incidents, including maritime casualties, which involve discharges or probability of discharges.

Article 212

Pollution from or through the atmosphere

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

SECTION 6. ENFORCEMENT*Article 213**Enforcement with respect to pollution from land-based sources*

States shall enforce their laws and regulations adopted in accordance with article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

*Article 214**Enforcement with respect to pollution from seabed activities*

States shall enforce their laws and regulations adopted in accordance with article 208 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

*Article 215**Enforcement with respect to pollution from activities in the Area*

Enforcement of international rules, regulations and procedures established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area shall be governed by that Part.

*Article 216**Enforcement with respect to pollution by dumping*

1. Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organizations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

- (a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;
- (b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;
- (c) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals.

2. No State shall be obliged by virtue of this article to institute proceedings when another State has already instituted proceedings in accordance with this article.

Article 217
Enforcement by flag States

1. States shall ensure compliance by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organization or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention for the prevention, reduction and control of pollution of the marine environment from vessels and shall accordingly adopt laws and regulations and take other measures necessary for their implementation. Flag States shall provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

2. States shall, in particular, take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards referred to in paragraph 1, including requirements in respect of design, construction, equipment and manning of vessels.

3. States shall ensure that vessels flying their flag or of their registry carry on board certificates required by and issued pursuant to international rules and standards referred to in paragraph 1. States shall ensure that vessels flying their flag are periodically inspected in order to verify that such certificates are in conformity with the actual condition of the vessels. These certificates shall be accepted by other States as evidence of the condition of the vessels and shall be regarded as having the same force as certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. If a vessel commits a violation of rules and standards established through the competent international organization or general diplomatic conference, the flag State, without prejudice to articles 218, 220 and 228, shall provide for immediate investigation and where appropriate institute proceedings in respect of the alleged violation irrespective of where the violation occurred or where the pollution caused by such violation has occurred or has been spotted.

5. Flag States conducting an investigation of the violation may request the assistance of any other State whose cooperation could be useful in clarifying the circumstances of the case. States shall endeavour to meet appropriate requests of flag States.

6. States shall, at the written request of any State, investigate any violation alleged to have been committed by vessels flying their flag. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, flag States shall without delay institute such proceedings in accordance with their laws.

7. Flag States shall promptly inform the requesting State and the competent international organization of the action taken and its outcome. Such information shall be available to all States.

8. Penalties provided for by the laws and regulations of States for vessels flying their flag shall be adequate in severity to discourage violations wherever they occur.

Article 218
Enforcement by port States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

2. No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.

3. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.

4. The records of the investigation carried out by a port State pursuant to this article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State.

Article 219
Measures relating to seaworthiness of vessels to avoid pollution

Subject to section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their off-shore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately.

Article 220
Enforcement by coastal States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

2. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the relevant provisions of Part II, section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of section 7.

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

4. States shall adopt laws and regulations and take other measures so that vessels flying their flag comply with requests for information pursuant to paragraph 3.

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

6. Where there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.

7. Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been

assured, the coastal State if bound by such procedures shall allow the vessel to proceed.

8. The provisions of paragraphs 3, 4, 5, 6 and 7 also apply in respect of national laws and regulations adopted pursuant to article 211, paragraph 6.

Article 221

Measures to avoid pollution arising from maritime casualties

1. Nothing in this Part shall prejudice the right of States, pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. For the purposes of this article, "maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

Article 222

Enforcement with respect to pollution from or through the atmosphere

States shall enforce, within the air space under their sovereignty or with regard to vessels flying their flag or vessels or aircraft of their registry, their laws and regulations adopted in accordance with article 212, paragraph 1, and with other provisions of this Convention and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from or through the atmosphere, in conformity with all relevant international rules and standards concerning the safety of air navigation.

SECTION 7. SAFEGUARDS

Article 223

Measures to facilitate proceedings

In proceedings instituted pursuant to this Part, States shall take measures to facilitate the hearing of witnesses and the admission of evidence submitted by authorities of another State, or by the competent international organization, and shall facilitate the attendance at such proceedings of official representatives of the competent international organization, the flag State and any State affected by pollution arising out of any violation. The official representatives attending such proceedings shall have such rights and duties as may be provided under national laws and regulations or international law.

Article 224
Exercise of powers of enforcement

The powers of enforcement against foreign vessels under this Part may only be exercised by officials or by warships, military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 225
Duty to avoid adverse consequences
in the exercise of the powers of enforcement

In the exercise under this Convention of their powers of enforcement against foreign vessels, States shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Article 226
Investigation of foreign vessels

1. (a) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:
 - (i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;
 - (ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or
 - (iii) the vessel is not carrying valid certificates and records.
 - (b) If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be made promptly subject to reasonable procedures such as bonding or other appropriate financial security.
 - (c) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV.
2. States shall cooperate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

*Article 227**Non-discrimination with respect to foreign vessels*

In exercising their rights and performing their duties under this Part, States shall not discriminate in form or in fact against vessels of any other State.

*Article 228**Suspension and restrictions on institution of proceedings*

1. Proceedings to impose penalties in respect of any violation of applicable laws and regulations or international rules and standards relating to the prevention, reduction and control of pollution from vessels committed by a foreign vessel beyond the territorial sea of the State instituting proceedings shall be suspended upon the taking of proceedings to impose penalties in respect of corresponding charges by the flag State within six months of the date on which proceedings were first instituted, unless those proceedings relate to a case of major damage to the coastal State or the flag State in question has repeatedly disregarded its obligation to enforce effectively the applicable international rules and standards in respect of violations committed by its vessels. The flag State shall in due course make available to the State previously instituting proceedings a full dossier of the case and the records of the proceedings, whenever the flag State has requested the suspension of proceedings in accordance with this article. When proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated. Upon payment of costs incurred in respect of such proceedings, any bond posted or other financial security provided in connection with the suspended proceedings shall be released by the coastal State.

2. Proceedings to impose penalties on foreign vessels shall not be instituted after the expiry of three years from the date on which the violation was committed, and shall not be taken by any State in the event of proceedings having been instituted by another State subject to the provisions set out in paragraph 1.

3. The provisions of this article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

*Article 229**Institution of civil proceedings*

Nothing in this Convention affects the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

*Article 230**Monetary penalties and the observance of recognized rights of the accused*

1. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels beyond the territorial sea.

2. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels in the territorial sea, except in the case of a wilful and serious act of pollution in the territorial sea.

3. In the conduct of proceedings in respect of such violations committed by a foreign vessel which may result in the imposition of penalties, recognized rights of the accused shall be observed.

Article 231

Notification to the flag State and other States concerned

States shall promptly notify the flag State and any other State concerned of any measures taken pursuant to section 6 against foreign vessels, and shall submit to the flag State all official reports concerning such measures. However, with respect to violations committed in the territorial sea, the foregoing obligations of the coastal State apply only to such measures as are taken in proceedings. The diplomatic agents or consular officers and where possible the maritime authority of the flag State, shall be immediately informed of any such measures taken pursuant to section 6 against foreign vessels.

Article 232

Liability of States arising from enforcement measures

States shall be liable for damage or loss attributable to them arising from measures taken pursuant to section 6 when such measures are unlawful or exceed those reasonably required in the light of available information. States shall provide for recourse in their courts for actions in respect of such damage or loss.

Article 233

Safeguards with respect to straits used for international navigation

Nothing in sections 5, 6 and 7 affects the legal regime of straits used for international navigation. However, if a foreign ship other than those referred to in section 10 has committed a violation of the laws and regulations referred to in article 42, paragraph 1(a) and (b), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect *mutatis mutandis* the provisions of this section.

SECTION 8. ICE-COVERED AREAS

Article 234

Ice-covered areas

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment

could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

SECTION 9. RESPONSIBILITY AND LIABILITY

Article 235 Responsibility and liability

1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.

2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.

3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall cooperate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

SECTION 10. SOVEREIGN IMMUNITY

Article 236 Sovereign immunity

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SECTION 11. OBLIGATIONS UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Article 237 Obligations under other conventions on the protection and preservation of the marine environment

1. The provisions of this Part are without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general principles set forth in this Convention.

2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of this Convention.

PART XIII

MARINE SCIENTIFIC RESEARCH

SECTION 1. GENERAL PROVISIONS

Article 238

Right to conduct marine scientific research

All States, irrespective of their geographical location, and competent international organizations have the right to conduct marine scientific research subject to the rights and duties of other States as provided for in this Convention.

Article 239

Promotion of marine scientific research

States and competent international organizations shall promote and facilitate the development and conduct of marine scientific research in accordance with this Convention.

Article 240

General principles for the conduct of marine scientific research

In the conduct of marine scientific research the following principles shall apply:

- (a) marine scientific research shall be conducted exclusively for peaceful purposes;
- (b) marine scientific research shall be conducted with appropriate scientific methods and means compatible with this Convention;
- (c) marine scientific research shall not unjustifiably interfere with other legitimate uses of the sea compatible with this Convention and shall be duly respected in the course of such uses;
- (d) marine scientific research shall be conducted in compliance with all relevant regulations adopted in conformity with this Convention including those for the protection and preservation of the marine environment.

Article 241

Non-recognition of marine scientific research activities as the legal basis for claims

Marine scientific research activities shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

SECTION 2. INTERNATIONAL COOPERATION

Article 242

Promotion of international cooperation

1. States and competent international organizations shall, in accordance with the principle of respect for sovereignty and jurisdiction and on the basis of mutual benefit, promote international cooperation in marine scientific research for peaceful purposes.

2. In this context, without prejudice to the rights and duties of States under this Convention, a State, in the application of this Part, shall provide, as appropriate, other States with a reasonable opportunity to obtain from it, or with its cooperation, information necessary to prevent and control damage to the health and safety of persons and to the marine environment.

Article 243

Creation of favourable conditions

States and competent international organizations shall cooperate, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of marine scientific research in the marine environment and to integrate the efforts of scientists in studying the essence of phenomena and processes occurring in the marine environment and the interrelations between them.

Article 244

Publication and dissemination of information and knowledge

1. States and competent international organizations shall, in accordance with this Convention, make available by publication and dissemination through appropriate channels information on proposed major programmes and their objectives as well as knowledge resulting from marine scientific research.

2. For this purpose, States, both individually and in cooperation with other States and with competent international organizations, shall actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, especially to developing States, as well as the strengthening of the autonomous marine scientific research capabilities of developing States through, *inter alia*, programmes to provide adequate education and training of their technical and scientific personnel.

SECTION 3. CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCH

Article 245

Marine scientific research in the territorial sea

Coastal States, in the exercise of their sovereignty, have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Marine scientific research therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State.

Article 246
Marine scientific research in the exclusive economic zone
and on the continental shelf

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.

2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

4. For the purposes of applying paragraph 3, normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State.

5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:

- (a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;
- (b) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;
- (c) involves the construction, operation or use of artificial islands, installations and structures referred to in articles 60 and 80;
- (d) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.

6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (a) of that paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of this Part on the continental shelf, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, outside those specific areas which coastal States may at any time publicly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.

7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77.

8. Marine scientific research activities referred to in this article shall not unjustifiably interfere with activities undertaken by coastal States in the

exercise of their sovereign rights and jurisdiction provided for in this Convention.

Article 247

*Marine scientific research projects undertaken
by or under the auspices of international organizations*

A coastal State which is a member of or has a bilateral agreement with an international organization, and in whose exclusive economic zone or on whose continental shelf that organization wants to carry out a marine scientific research project, directly or under its auspices, shall be deemed to have authorized the project to be carried out in conformity with the agreed specifications if that State approved the detailed project when the decision was made by the organization for the undertaking of the project, or is willing to participate in it, and has not expressed any objection within four months of notification of the project by the organization to the coastal State.

Article 248

Duty to provide information to the coastal State

States and competent international organizations which intend to undertake marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall, not less than six months in advance of the expected starting date of the marine scientific research project, provide that State with a full description of:

- (a) the nature and objectives of the project;
- (b) the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment;
- (c) the precise geographical areas in which the project is to be conducted;
- (d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;
- (e) the name of the sponsoring institution, its director, and the person in charge of the project; and
- (f) the extent to which it is considered that the coastal State should be able to participate or to be represented in the project.

Article 249

Duty to comply with certain conditions

1. States and competent international organizations when undertaking marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall comply with the following conditions:

- (a) ensure the right of the coastal State, if it so desires, to participate or be represented in the marine scientific research project, especially on board research vessels and other craft or scientific research installations, when practicable, without payment of any remuneration to the scientists of the coastal State and without obligation to contribute towards the costs of the project;

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- (b) provide the coastal State, at its request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;
 - (c) undertake to provide access for the coastal State, at its request, to all data and samples derived from the marine scientific research project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;
 - (d) if requested, provide the coastal State with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;
 - (e) ensure, subject to paragraph 2, that the research results are made internationally available through appropriate national or international channels, as soon as practicable;
 - (f) inform the coastal State immediately of any major change in the research programme;
 - (g) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

2. This article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to article 246, paragraph 5, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

Article 250

Communications concerning marine scientific research projects

Communications concerning the marine scientific research projects shall be made through appropriate official channels, unless otherwise agreed.

Article 251

General criteria and guidelines

States shall seek to promote through competent international organizations the establishment of general criteria and guidelines to assist States in ascertaining the nature and implications of marine scientific research.

Article 252

Implied consent

States or competent international organizations may proceed with a marine scientific research project six months after the date upon which the information required pursuant to article 248 was provided to the coastal State unless within four months of the receipt of the communication containing such information the coastal State has informed the State or organization conducting the research that:

- (a) it has withheld its consent under the provisions of article 246; or
- (b) the information given by that State or competent international organization regarding the nature or objectives of the project does not conform to the manifestly evident facts; or

- (c) it requires supplementary information relevant to conditions and the information provided for under articles 248 and 249; or
- (d) outstanding obligations exist with respect to a previous marine scientific research project carried out by that State or organization, with regard to conditions established in article 249.

Article 253

Suspension or cessation of marine scientific research activities

1. A coastal State shall have the right to require the suspension of any marine scientific research activities in progress within its exclusive economic zone or on its continental shelf if:

- (a) the research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or
- (b) the State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the marine scientific research project.

2. A coastal State shall have the right to require the cessation of any marine scientific research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. A coastal State may also require cessation of marine scientific research activities if any of the situations contemplated in paragraph 1 are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct marine scientific research activities shall terminate the research activities that are the subject of such a notification.

5. An order of suspension under paragraph 1 shall be lifted by the coastal State and the marine scientific research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

Article 254

*Rights of neighbouring land-locked
and geographically disadvantaged States*

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research referred to in article 246, paragraph 3, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project, and shall notify the coastal State thereof.

2. After the consent has been given for the proposed marine scientific research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this Convention, States and competent international organizations undertaking such a project shall provide to the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, relevant information as specified in article 248 and article 249, paragraph 1(f).

3. The neighbouring land-locked and geographically disadvantaged States referred to above shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed marine scientific research project through qualified experts appointed by them and not objected to by the coastal State, in accordance with the conditions agreed for the project, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 shall provide to the above-mentioned land-locked and geographically disadvantaged States, at their request, the information and assistance specified in article 249, paragraph 1(d), subject to the provisions of article 249, paragraph 2.

Article 255
Measures to facilitate marine scientific research
and assist research vessels

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific research conducted in accordance with this Convention beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their laws and regulations, access to their harbours and promote assistance for marine scientific research vessels which comply with the relevant provisions of this Part.

Article 256
Marine scientific research in the Area

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with the provisions of Part XI, to conduct marine scientific research in the Area.

Article 257
Marine scientific research in the water column
beyond the exclusive economic zone

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with this Convention, to conduct marine scientific research in the water column beyond the limits of the exclusive economic zone.

**SECTION 4. SCIENTIFIC RESEARCH INSTALLATIONS OR
EQUIPMENT IN THE MARINE ENVIRONMENT**

Article 258
Deployment and use

The deployment and use of any type of scientific research installations or equipment in any area of the marine environment shall be subject to the same conditions as are prescribed in this Convention for the conduct of marine scientific research in any such area.

Article 259
Legal status

The installations or equipment referred to in this section do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 260
Safety zones

Safety zones of a reasonable breadth not exceeding a distance of 500 metres may be created around scientific research installations in accordance with the relevant provisions of this Convention. All States shall ensure that such safety zones are respected by their vessels.

Article 261
Non-interference with shipping routes

The deployment and use of any type of scientific research installations or equipment shall not constitute an obstacle to established international shipping routes.

Article 262
Identification markings and warning signals

Installations or equipment referred to in this section shall bear identification markings indicating the State of registry or the international organization to which they belong and shall have adequate internationally agreed warning signals to ensure safety at sea and the safety of air navigation, taking into account rules and standards established by competent international organizations.

SECTION 5. RESPONSIBILITY AND LIABILITY

Article 263
Responsibility and liability

1. States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with this Convention.

2. States and competent international organizations shall be responsible and liable for the measures they take in contravention of this Convention in respect of marine scientific research conducted by other States, their natural or juridical persons or by competent international organizations, and shall provide compensation for damage resulting from such measures.

3. States and competent international organizations shall be responsible and liable pursuant to article 235 for damage caused by pollution of the marine environment arising out of marine scientific research undertaken by them or on their behalf.

**SECTION 6. SETTLEMENT OF DISPUTES
AND INTERIM MEASURES***Article 264
Settlement of disputes*

Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with Part XV, sections 2 and 3.

*Article 265
Interim measures*

Pending settlement of a dispute in accordance with Part XV, sections 2 and 3, the State or competent international organization authorized to conduct a marine scientific research project shall not allow research activities to commence or continue without the express consent of the coastal State concerned.

PART XIV**DEVELOPMENT AND TRANSFER OF MARINE
TECHNOLOGY****SECTION 1. GENERAL PROVISIONS***Article 266
Promotion of the development and transfer of marine technology*

1. States, directly or through competent international organizations, shall cooperate in accordance with their capabilities to promote actively the development and transfer of marine science and marine technology on fair and reasonable terms and conditions.

2. States shall promote the development of the marine scientific and technological capacity of States which may need and request technical assistance in this field, particularly developing States, including land-locked and geographically disadvantaged States, with regard to the exploration, exploitation, conservation and management of marine resources, the protection and preservation of the marine environment, marine scientific research and other activities in the marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

3. States shall endeavour to foster favourable economic and legal conditions for the transfer of marine technology for the benefit of all parties concerned on an equitable basis.

*Article 267
Protection of legitimate interests*

States, in promoting cooperation pursuant to article 266, shall have due regard for all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of marine technology.

Article 268
Basic objectives

States, directly or through competent international organizations, shall promote:

- (a) the acquisition, evaluation and dissemination of marine technological knowledge and facilitate access to such information and data;
- (b) the development of appropriate marine technology;
- (c) the development of the necessary technological infrastructure to facilitate the transfer of marine technology;
- (d) the development of human resources through training and education of nationals of developing States and countries and especially the nationals of the least developed among them;
- (e) international cooperation at all levels, particularly at the regional, subregional and bilateral levels.

Article 269
Measures to achieve the basic objectives

In order to achieve the objectives referred to in article 268, States, directly or through competent international organizations, shall endeavour, *inter alia*, to:

- (a) establish programmes of technical cooperation for the effective transfer of all kinds of marine technology to States which may need and request technical assistance in this field, particularly the developing land-locked and geographically disadvantaged States, as well as other developing States which have not been able either to establish or develop their own technological capacity in marine science and in the exploration and exploitation of marine resources or to develop the infrastructure of such technology;
- (b) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;
- (c) hold conferences, seminars and symposia on scientific and technological subjects, in particular on policies and methods for the transfer of marine technology;
- (d) promote the exchange of scientists and of technological and other experts;
- (e) undertake projects and promote joint ventures and other forms of bilateral and multilateral cooperation.

SECTION 2. INTERNATIONAL COOPERATION

Article 270
Ways and means of international cooperation

International cooperation for the development and transfer of marine technology shall be carried out, where feasible and appropriate, through existing bilateral, regional or multilateral programmes, and also through expanded and new programmes in order to facilitate marine scientific research, the transfer of marine technology, particularly in new fields, and appropriate international funding for ocean research and development.

Article 271
Guidelines, criteria and standards

States, directly or through competent international organizations, shall promote the establishment of generally accepted guidelines, criteria and standards for the transfer of marine technology on a bilateral basis or within the framework of international organizations and other fora, taking into account, in particular, the interests and needs of developing States.

Article 272
Coordination of international programmes

In the field of transfer of marine technology, States shall endeavour to ensure that competent international organizations coordinate their activities, including any regional or global programmes, taking into account the interests and needs of developing States, particularly land-locked and geographically disadvantaged States.

Article 273
Cooperation with international organizations and the Authority

States shall cooperate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals and the Enterprise of skills and marine technology with regard to activities in the Area.

Article 274
Objectives of the Authority

Subject to all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of technology, the Authority, with regard to activities in the Area, shall ensure that:

- (a) on the basis of the principle of equitable geographical distribution, nationals of developing States, whether coastal, land-locked or geographically disadvantaged, shall be taken on for the purposes of training as members of the managerial, research and technical staff constituted for its undertakings;
- (b) the technical documentation on the relevant equipment, machinery, devices and processes is made available to all States, in particular developing States which may need and request technical assistance in this field;
- (c) adequate provision is made by the Authority to facilitate the acquisition of technical assistance in the field of marine technology by States which may need and request it, in particular developing States, and the acquisition by their nationals of the necessary skills and know-how, including professional training;
- (d) States which may need and request technical assistance in this field, in particular developing States, are assisted in the acquisition of necessary equipment, processes, plant and other technical know-how through any financial arrangements provided for in this Convention.

SECTION 3. NATIONAL AND REGIONAL MARINE SCIENTIFIC AND TECHNOLOGICAL CENTRES

Article 275

Establishment of national centres

1. States, directly or through competent international organizations and the Authority, shall promote the establishment, particularly in developing coastal States, of national marine scientific and technological research centres and the strengthening of existing national centres, in order to stimulate and advance the conduct of marine scientific research by developing coastal States and to enhance their national capabilities to utilize and preserve their marine resources for their economic benefit.

2. States, through competent international organizations and the Authority, shall give adequate support to facilitate the establishment and strengthening of such national centres so as to provide for advanced training facilities and necessary equipment, skills and know-how as well as technical experts to such States which may need and request such assistance.

Article 276

Establishment of regional centres

1. States, in coordination with the competent international organizations, the Authority and national marine scientific and technological research institutions, shall promote the establishment of regional marine scientific and technological research centres, particularly in developing States, in order to stimulate and advance the conduct of marine scientific research by developing States and foster the transfer of marine technology.

2. All States of a region shall cooperate with the regional centres therein to ensure the more effective achievement of their objectives.

Article 277

Functions of regional centres

The functions of such regional centres shall include, *inter alia*:

- (a) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geological exploration of the seabed, mining and desalination technologies;
- (b) management studies;
- (c) study programmes related to the protection and preservation of the marine environment and the prevention, reduction and control of pollution;
- (d) organization of regional conferences, seminars and symposia;
- (e) acquisition and processing of marine scientific and technological data and information;
- (f) prompt dissemination of results of marine scientific and technological research in readily available publications;
- (g) publicizing national policies with regard to the transfer of marine technology and systematic comparative study of those policies;

- (h) compilation and systematization of information on the marketing of technology and on contracts and other arrangements concerning patents;
- (i) technical cooperation with other States of the region.

SECTION 4. COOPERATION AMONG INTERNATIONAL ORGANIZATIONS

Article 278

Cooperation among international organizations

The competent international organizations referred to in this Part and in Part XIII shall take all appropriate measures to ensure, either directly or in close cooperation among themselves, the effective discharge of their functions and responsibilities under this Part.

PART XV

SETTLEMENT OF DISPUTES

SECTION 1. GENERAL PROVISIONS

Article 279

Obligation to settle disputes by peaceful means

States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.

Article 280

Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice.

Article 281

Procedure where no settlement has been reached by the parties

1. If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure.

2. If the parties have also agreed on a time-limit, paragraph 1 applies only upon the expiration of that time-limit.

*Article 282**Obligations under general, regional or bilateral agreements*

If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

*Article 283**Obligation to exchange views*

1. When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means.

2. The parties shall also proceed expeditiously to an exchange of views where a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

*Article 284**Conciliation*

1. A State Party which is a party to a dispute concerning the interpretation or application of this Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Annex V, section 1, or another conciliation procedure.

2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied, any party may submit the dispute to that procedure.

3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.

4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

*Article 285**Application of this section to disputes submitted pursuant to Part XI*

This section applies to any dispute which pursuant to Part XI, section 5, is to be settled in accordance with procedures provided for in this Part. If an entity other than a State Party is a party to such a dispute, this section applies *mutatis mutandis*.

SECTION 2. COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 286

Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287

Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

- (a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;
- (b) the International Court of Justice;
- (c) an arbitral tribunal constituted in accordance with Annex VII;
- (d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288
Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289
Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290
Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Seabed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may

modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291
Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 292
Prompt release of vessels and crews

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within 10 days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.

2. The application for release may be made only by or on behalf of the flag State of the vessel.

3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.

4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

Article 293
Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.

2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294
Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall

determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or is *prima facie* unfounded, it shall take no further action in the case.

2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.

3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

Article 295
Exhaustion of local remedies

Any dispute between States Parties concerning the interpretation or application of this Convention may be submitted to the procedures provided for in this section only after local remedies have been exhausted where this is required by international law.

Article 296
Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

**SECTION 3. LIMITATIONS AND EXCEPTIONS
TO APPLICABILITY OF SECTION 2**

Article 297
Limitations on applicability of section 2

1. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases:

- (a) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58;
- (b) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not incompatible with this Convention; or
- (c) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are

applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.

2. (a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute arising out of:
 - (i) the exercise by the coastal State of a right or discretion in accordance with article 246; or
 - (ii) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.
- (b) A dispute arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with this Convention shall be submitted, at the request of either party, to conciliation under Annex V, section 2, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in article 246, paragraph 6, or of its discretion to withhold consent in accordance with article 246, paragraph 5.
3. (a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management laws and regulations.
- (b) Where no settlement has been reached by recourse to section 1 of this Part, a dispute shall be submitted to conciliation under Annex V, section 2, at the request of any party to the dispute, when it is alleged that:
 - (i) a coastal State has manifestly failed to comply with its obligations to ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not seriously endangered;
 - (ii) a coastal State has arbitrarily refused to determine, at the request of another State, the allowable catch and its capacity to harvest living resources with respect to stocks which that other State is interested in fishing; or
 - (iii) a coastal State has arbitrarily refused to allocate to any State, under articles 62, 69 and 70 and under the terms and conditions established by the coastal State consistent with this Convention, the whole or part of the surplus it has declared to exist.

- (c) In no case shall the conciliation commission substitute its discretion for that of the coastal State.
- (d) The report of the conciliation commission shall be communicated to the appropriate international organizations.
- (e) In negotiating agreements pursuant to articles 69 and 70, States Parties, unless they otherwise agree, shall include a clause on measures which they shall take in order to minimize the possibility of a disagreement concerning the interpretation or application of the agreement, and on how they should proceed if a disagreement nevertheless arises.

Article 298

Optional exceptions to applicability of section 2

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:

- (a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;
- (ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree;
- (iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties;
- (b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1(a), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 299

Right of the parties to agree upon a procedure

1. A dispute excluded under article 297 or excepted by a declaration made under article 298 from the dispute settlement procedures provided for in section 2 may be submitted to such procedures only by agreement of the parties to the dispute.

2. Nothing in this section impairs the right of the parties to the dispute to agree to some other procedure for the settlement of such dispute or to reach an amicable settlement.

PART XVI

GENERAL PROVISIONS

Article 300

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.

Article 301
Peaceful uses of the seas

In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.

Article 302
Disclosure of information

Without prejudice to the right of a State Party to resort to the procedures for the settlement of disputes provided for in this Convention, nothing in this Convention shall be deemed to require a State Party, in the fulfilment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.

Article 303
Archaeological and historical objects found at sea

1. States have the duty to protect objects of an archaeological and historical nature found at sea and shall cooperate for this purpose.

2. In order to control traffic in such objects, the coastal State may, in applying article 33, presume that their removal from the seabed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.

3. Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.

4. This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

Article 304
Responsibility and liability for damage

The provisions of this Convention regarding responsibility and liability for damage are without prejudice to the application of existing rules and the development of further rules regarding responsibility and liability under international law.

PART XVII

FINAL PROVISIONS

Article 305 *Signature*

1. This Convention shall be open for signature by:
 - (a) all States;
 - (b) Namibia, represented by the United Nations Council for Namibia;
 - (c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
 - (d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
 - (e) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
 - (f) international organizations, in accordance with Annex IX.
2. This Convention shall remain open for signature until 9 December 1984 at the Ministry of Foreign Affairs of Jamaica and also, from 1 July 1983 until 9 December 1984, at United Nations Headquarters in New York.

Article 306 *Ratification and formal confirmation*

This Convention is subject to ratification by States and the other entities referred to in article 305, paragraph 1(b), (c), (d) and (e), and to formal confirmation, in accordance with Annex IX, by the entities referred to in article 305, paragraph 1(f). The instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 307 *Accession*

This Convention shall remain open for accession by States and the other entities referred to in article 305. Accession by the entities referred to in article 305, paragraph 1(f), shall be in accordance with Annex IX. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 308
Entry into force

1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

3. The Assembly of the Authority shall meet on the date of entry into force of this Convention and shall elect the Council of the Authority. The first Council shall be constituted in a manner consistent with the purpose of article 161 if the provisions of that article cannot be strictly applied.

4. The rules, regulations and procedures drafted by the Preparatory Commission shall apply provisionally pending their formal adoption by the Authority in accordance with Part XI.

5. The Authority and its organs shall act in accordance with resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment and with decisions of the Preparatory Commission taken pursuant to that resolution.

Article 309
Reservations and exceptions

No reservations or exceptions may be made to this Convention unless expressly permitted by other articles of this Convention.

Article 310
Declarations and statements

Article 309 does not preclude a State, when signing, ratifying 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.

Article 311
Relation to other conventions and international agreements

1. This Convention shall prevail, as between States Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958.

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

3. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Convention, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Convention, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the

enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

4. States Parties intending to conclude an agreement referred to in paragraph 3 shall notify the other States Parties through the depositary of this Convention of their intention to conclude the agreement and of the modification or suspension for which it provides.

5. This article does not affect international agreements expressly permitted or preserved by other articles of this Convention.

6. States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof.

Article 312
Amendment

1. After the expiry of a period of 10 years from the date of entry into force of this Convention, a State Party may, by written communication addressed to the Secretary-General of the United Nations, propose specific amendments to this Convention, other than those relating to activities in the Area, and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within 12 months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

Article 313
Amendment by simplified procedure

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose an amendment to this Convention, other than an amendment relating to activities in the Area, to be adopted by the simplified procedure set forth in this article without convening a conference. The Secretary-General shall circulate the communication to all States Parties.

2. If, within a period of 12 months from the date of the circulation of the communication, a State Party objects to the proposed amendment or to the proposal for its adoption by the simplified procedure, the amendment shall be considered rejected. The Secretary-General shall immediately notify all States Parties accordingly.

3. If, 12 months from the date of the circulation of the communication, no State Party has objected to the proposed amendment or to the proposal for its adoption by the simplified procedure, the proposed amendment shall be considered adopted. The Secretary-General shall notify all States Parties that the proposed amendment has been adopted.

Article 314
Amendments to the provisions of this Convention
relating exclusively to activities in the Area

1. A State Party may, by written communication addressed to the Secretary-General of the Authority, propose an amendment to the provisions of this Convention relating exclusively to activities in the Area, including Annex VI, section 4. The Secretary-General shall circulate such communication to all States Parties. The proposed amendment shall be subject to approval by the Assembly following its approval by the Council. Representatives of States Parties in those organs shall have full powers to consider and approve the proposed amendment. The proposed amendment as approved by the Council and the Assembly shall be considered adopted.

2. Before approving any amendment under paragraph 1, the Council and the Assembly shall ensure that it does not prejudice the system of exploration for and exploitation of the resources of the Area, pending the Review Conference in accordance with article 155.

Article 315
Signature, ratification of, accession to
and authentic texts of amendments

1. Once adopted, amendments to this Convention shall be open for signature by States Parties for 12 months from the date of adoption, at United Nations Headquarters in New York, unless otherwise provided in the amendment itself.

2. Articles 306, 307 and 320 apply to all amendments to this Convention.

Article 316
Entry into force of amendments

1. Amendments to this Convention, other than those referred to in paragraph 5, shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties or by 60 States Parties, whichever is greater. Such amendments shall not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

2. An amendment may provide that a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

3. For each State Party ratifying or acceding to an amendment referred to in paragraph 1 after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

4. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 1 shall, failing an expression of a different intention by that State:

- (a) be considered as a Party to this Convention as so amended; and
- (b) be considered as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

5. Any amendment relating exclusively to activities in the Area and any amendment to Annex VI shall enter into force for all States Parties one year following the deposit of instruments of ratification or accession by three fourths of the States Parties.

6. A State which becomes a Party to this Convention after the entry into force of amendments in accordance with paragraph 5 shall be considered as a Party to this Convention as so amended.

Article 317
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Convention and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. A State shall not be discharged by reason of the denunciation from the financial and contractual obligations which accrued while it was a Party to this Convention, nor shall the denunciation affect any right, obligation or legal situation of that State created through the execution of this Convention prior to its termination for that State.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 318
Status of Annexes

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

Article 319
Depositary

1. The Secretary-General of the United Nations shall be the depositary of this Convention and amendments thereto.

2. In addition to his functions as depositary, the Secretary-General shall:

- (a) report to all States Parties, the Authority and competent international organizations on issues of a general nature that have arisen with respect to this Convention;
 - (b) notify the Authority of ratifications and formal confirmations of and accessions to this Convention and amendments thereto, as well as of denunciations of this Convention;
 - (c) notify States Parties of agreements in accordance with article 311, paragraph 4;
 - (d) circulate amendments adopted in accordance with this Convention to States Parties for ratification or accession;
 - (e) convene necessary meetings of States Parties in accordance with this Convention.
3. (a) The Secretary-General shall also transmit to the observers referred to in article 156:

- (i) reports referred to in paragraph 2(a);
 - (ii) notifications referred to in paragraph 2(b) and (c); and
 - (iii) texts of amendments referred to in paragraph 2(d), for their information.
- (b) The Secretary-General shall also invite those observers to participate as observers at meetings of States Parties referred to in paragraph 2(e).

Article 320
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall, subject to article 305, paragraph 2, be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE AT MONTEGO BAY, this tenth day of December, one thousand nine hundred and eighty-two.

ANNEX I. HIGHLY MIGRATORY SPECIES

1. Albacore tuna: *Thunnus alalunga*.
2. Bluefin tuna: *Thunnus thynnus*.
3. Bigeye tuna: *Thunnus obesus*.
4. Skipjack tuna: *Katsuwonus pelamis*.
5. Yellowfin tuna: *Thunnus albacares*.
6. Blackfin tuna: *Thunnus atlanticus*.
7. Little tuna: *Euthynnus alletteratus*; *Euthynnus affinis*.
8. Southern bluefin tuna: *Thunnus maccoyii*.
9. Frigate mackerel: *Auxis thazard*; *Auxis rochei*.
10. Pomfrets: Family *Bramidae*.
11. Marlins: *Tetrapturus angustirostris*; *Tetrapturus belone*; *Tetrapturus pfluegeri*; *Tetrapturus albidus*; *Tetrapturus audax*; *Tetrapturus georgei*; *Makaira mazara*; *Makaira indica*; *Makaira nigricans*.
12. Sail-fishes: *Istiophorus platypterus*; *Istiophorus albicans*.
13. Swordfish: *Xiphias gladius*.
14. Sauries: *Scomberesox saurus*; *Cololabis saira*; *Cololabis adocetus*; *Scomberesox saurus scombroides*.
15. Dolphin: *Coryphaena hippurus*; *Coryphaena equiselis*.
16. Oceanic sharks: *Hexanchus griseus*; *Cetorhinus maximus*; Family *Alopiidae*; *Rhincodon typus*; Family *Carcharhinidae*; Family *Sphyrnidae*; Family *Isurida*.
17. Cetaceans: Family *Physeteridae*; Family *Balaenopteridae*; Family *Balaenidae*; Family *Eschrichtiidae*; Family *Monodontidae*; Family *Ziphiidae*; Family *Delphinidae*.

ANNEX II. COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Article 1

In accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following articles.

Article 2

1. The Commission shall consist of 21 members who shall be experts in the field of geology, geophysics or hydrography, elected by States Parties to this Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.

2. The initial election shall be held as soon as possible but in any case within 18 months after the date of entry into force of this Convention. At least three months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties, inviting the submission of nominations, after appropriate regional consultations, within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to all the States Parties.

3. Elections of the members of the Commission shall be held at a meeting of States Parties convened by the Secretary-General at United

Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Commission shall be those nominees who obtain a two-thirds majority of the votes of the representatives of States Parties present and voting. Not less than three members shall be elected from each geographical region.

4. The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election.

5. The State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties. The coastal State concerned shall defray the expenses incurred in respect of the advice referred to in article 3, paragraph 1(b), of this Annex. The secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

Article 3

1. The functions of the Commission shall be:
 - (a) to consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;
 - (b) to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (a).

2. The Commission may cooperate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

Article 4

Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be a member of the sub-commission dealing with that submission but has the right to participate

as a member in the proceedings of the Commission concerning the said submission. The coastal State which has made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

Article 6

1. The sub-commission shall submit its recommendations to the Commission.

2. Approval by the Commission of the recommendations of the sub-commission shall be by a majority of two thirds of Commission members present and voting.

3. The recommendations of the Commission shall be submitted in writing to the coastal State which made the submission and to the Secretary-General of the United Nations.

Article 7

Coastal States shall establish the outer limits of the continental shelf in conformity with the provisions of article 76, paragraph 8, and in accordance with the appropriate national procedures.

Article 8

In the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission.

Article 9

The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.

**ANNEX III. BASIC CONDITIONS OF PROSPECTING,
EXPLORATION AND EXPLOITATION**

Article 1

Title to minerals

Title to minerals shall pass upon recovery in accordance with this Convention.

Article 2

Prospecting

1. (a) The Authority shall encourage prospecting in the Area.
- (b) Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector will comply with this Convention and the relevant rules, regulations and procedures of the Authority concerning cooperation in the training programmes referred to in articles 143 and 144 and the protection of the marine environment, and will accept verification by the Authority of

compliance therewith. The proposed prospector shall, at the same time, notify the Authority of the approximate area or areas in which prospecting is to be conducted.

- (c) Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

2. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals to be used for testing.

Article 3

Exploration and exploitation

1. The Enterprise, States Parties, and the other entities referred to in article 153, paragraph 2(b), may apply to the Authority for approval of plans of work for activities in the Area.

2. The Enterprise may apply with respect to any part of the Area, but applications by others with respect to reserved areas are subject to the additional requirements of article 9 of this Annex.

3. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in article 153, paragraph 3, and approved by the Authority in accordance with this Convention and the relevant rules, regulations and procedures of the Authority.

4. Every approved plan of work shall:

- (a) be in conformity with this Convention and the rules, regulations and procedures of the Authority;
- (b) provide for control by the Authority of activities in the Area in accordance with article 153, paragraph 4;
- (c) confer on the operator, in accordance with the rules, regulations and procedures of the Authority, the exclusive right to explore for and exploit the specified categories of resources in the area covered by the plan of work. If, however, the applicant presents for approval a plan of work covering only the stage of exploration or the stage of exploitation, the approved plan of work shall confer such exclusive right with respect to that stage only.

5. Upon its approval by the Authority, every plan of work, except those presented by the Enterprise, shall be in the form of a contract concluded between the Authority and the applicant or applicants.

Article 4

Qualifications of applicants

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2(b), and if they follow the procedures and meet the qualification standards set forth in the rules, regulations and procedures of the Authority.

2. Except as provided in paragraph 6, such qualification standards shall relate to the financial and technical capabilities of the applicant and his performance under any previous contracts with the Authority.

3. Each applicant shall be sponsored by the State Party of which it is a national unless the applicant has more than one nationality, as in the case of a partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, or unless the

applicant is effectively controlled by another State Party or its nationals, in which event both States Parties shall sponsor the application. The criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority.

4. The sponsoring State or States shall, pursuant to article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the terms of its contract and its obligations under this Convention. A sponsoring State shall not, however, be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if that State Party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

5. The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.

6. The qualification standards shall require that every applicant, without exception, shall as part of his application undertake:

- (a) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and terms of his contracts with the Authority;
- (b) to accept control by the Authority of activities in the Area, as authorized by this Convention;
- (c) to provide the Authority with a written assurance that his obligations under the contract will be fulfilled in good faith;
- (d) to comply with the provisions on the transfer of technology set forth in article 5 of this Annex.

Article 5 *Transfer of technology*

1. When submitting a plan of work, every applicant shall make available to the Authority a general description of the equipment and methods to be used in carrying out activities in the Area, and other relevant non-proprietary information about the characteristics of such technology and information as to where such technology is available.

2. Every operator shall inform the Authority of revisions in the description and information made available pursuant to paragraph 1 whenever a substantial technological change or innovation is introduced.

3. Every contract for carrying out activities in the Area shall contain the following undertakings by the contractor:

- (a) to make available to the Enterprise on fair and reasonable commercial terms and conditions, whenever the Authority so requests, the technology which he uses in carrying out activities in the Area under the contract, which the contractor is legally entitled to transfer. This shall be done by means of licences or other appropriate arrangements which the contractor shall negotiate with the Enterprise and which shall be set forth in a specific agreement supplementary to the contract. This undertaking may be invoked only if the Enterprise finds that it is unable to obtain the same or equally efficient and useful

technology on the open market on fair and reasonable commercial terms and conditions;

- (b) to obtain a written assurance from the owner of any technology used in carrying out activities in the Area under the contract, which is not generally available on the open market and which is not covered by subparagraph (a), that the owner will, whenever the Authority so requests, make that technology available to the Enterprise under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, to the same extent as made available to the contractor. If this assurance is not obtained, the technology in question shall not be used by the contractor in carrying out activities in the Area;
- (c) to acquire from the owner by means of an enforceable contract, upon the request of the Enterprise and if it is possible to do so without substantial cost to the contractor, the legal right to transfer to the Enterprise any technology used by the contractor, in carrying out activities in the Area under the contract, which the contractor is otherwise not legally entitled to transfer and which is not generally available on the open market. In cases where there is a substantial corporate relationship between the contractor and the owner of the technology, the closeness of this relationship and the degree of control or influence shall be relevant to the determination whether all feasible measures have been taken to acquire such a right. In cases where the contractor exercises effective control over the owner, failure to acquire from the owner the legal right shall be considered relevant to the contractor's qualification for any subsequent application for approval of a plan of work;
- (d) to facilitate, upon the request of the Enterprise, the acquisition by the Enterprise of any technology covered by subparagraph (b), under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, if the Enterprise decides to negotiate directly with the owner of the technology;
- (e) to take the same measures as are prescribed in subparagraphs (a), (b), (c) and (d) for the benefit of a developing State or group of developing States which has applied for a contract under article 9 of this Annex, provided that these measures shall be limited to the exploitation of the part of the area proposed by the contractor which has been reserved pursuant to article 8 of this Annex and provided that activities under the contract sought by the developing State or group of developing States would not involve transfer of technology to a third State or the nationals of a third State. The obligation under this provision shall only apply with respect to any given contractor where technology has not been requested by the Enterprise or transferred by that contractor to the Enterprise.

4. Disputes concerning undertakings required by paragraph 3, like other provisions of the contracts, shall be subject to compulsory settlement in accordance with Part XI and, in cases of violation of these undertakings, suspension or termination of the contract or monetary penalties may be

ordered in accordance with article 18 of this Annex. Disputes as to whether offers made by the contractor are within the range of fair and reasonable commercial terms and conditions may be submitted by either party to binding commercial arbitration in accordance with the UNCITRAL Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority. If the finding is that the offer made by the contractor is not within the range of fair and reasonable commercial terms and conditions, the contractor shall be given 45 days to revise his offer to bring it within that range before the Authority takes any action in accordance with article 18 of this Annex.

5. If the Enterprise is unable to obtain on fair and reasonable commercial terms and conditions appropriate technology to enable it to commence in a timely manner the recovery and processing of minerals from the Area, either the Council or the Assembly may convene a group of States Parties composed of those which are engaged in activities in the Area, those which have sponsored entities which are engaged in activities in the Area and other States Parties having access to such technology. This group shall consult together and shall take effective measures to ensure that such technology is made available to the Enterprise on fair and reasonable commercial terms and conditions. Each such State Party shall take all feasible measures to this end within its own legal system.

6. In the case of joint ventures with the Enterprise, transfer of technology will be in accordance with the terms of the joint venture agreement.

7. The undertakings required by paragraph 3 shall be included in each contract for the carrying out of activities in the Area until 10 years after the commencement of commercial production by the Enterprise, and may be invoked during that period.

8. For the purposes of this article, "technology" means the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis.

Article 6 *Approval of plans of work*

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration proposed plans of work.

2. When considering an application for approval of a plan of work in the form of a contract, the Authority shall first ascertain whether:

- (a) the applicant has complied with the procedures established for applications in accordance with article 4 of this Annex and has given the Authority the undertakings and assurances required by that article. In cases of non-compliance with these procedures or in the absence of any of these undertakings and assurances, the applicant shall be given 45 days to remedy these defects;
- (b) the applicant possesses the requisite qualifications provided for in article 4 of this Annex.

3. All proposed plans of work shall be taken up in the order in which they are received. The proposed plans of work shall comply with and be

governed by the relevant provisions of this Convention and the rules, regulations and procedures of the Authority, including those on operational requirements, financial contributions and the undertakings concerning the transfer of technology. If the proposed plans of work conform to these requirements, the Authority shall approve them provided that they are in accordance with the uniform and non-discriminatory requirements set forth in the rules, regulations and procedures of the Authority, unless:

- (a) part or all of the area covered by the proposed plan of work is included in an approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority;
- (b) part or all of the area covered by the proposed plan of work is disapproved by the Authority pursuant to article 162, paragraph 2(x); or
- (c) the proposed plan of work has been submitted or sponsored by a State Party which already holds:
 - (i) plans of work for exploration and exploitation of polymetallic nodules in non-reserved areas that, together with either part of the area covered by the application for a plan of work, exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed plan of work;
 - (ii) plans of work for the exploration and exploitation of polymetallic nodules in non-reserved areas which, taken together, constitute 2 per cent of the total seabed area which is not reserved or disapproved for exploitation pursuant to article 162, paragraph (2)(x).

4. For the purpose of the standard set forth in paragraph 3(c), a plan of work submitted by a partnership or consortium shall be counted on a *pro rata* basis among the sponsoring States Parties involved in accordance with article 4, paragraph 3, of this Annex. The Authority may approve plans of work covered by paragraph 3(c) if it determines that such approval would not permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area.

5. Notwithstanding paragraph 3(a), after the end of the interim period specified in article 151, paragraph 3, the Authority may adopt by means of rules, regulations and procedures other procedures and criteria consistent with this Convention for deciding which applicants shall have plans of work approved in cases of selection among applicants for a proposed area. These procedures and criteria shall ensure approval of plans of work on an equitable and non-discriminatory basis.

Article 7

Selection among applicants for production authorizations

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration applications for production authorizations submitted during the immediately preceding period. The Authority shall issue the authorizations applied for if all such applications can be approved without exceeding the production limitation or contravening the obligations of the Authority under a commodity

agreement or arrangement to which it has become a party, as provided in article 151.

2. When a selection must be made among applicants for production authorizations because of the production limitation set forth in article 151, paragraphs 2 to 7, or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in its rules, regulations and procedures.

3. In the application of paragraph 2, the Authority shall give priority to those applicants which:

- (a) give better assurance of performance, taking into account their financial and technical qualifications and their performance, if any, under previously approved plans of work;
- (b) provide earlier prospective financial benefits to the Authority, taking into account when commercial production is scheduled to begin;
- (c) have already invested the most resources and effort in prospecting or exploration.

4. Applicants which are not selected in any period shall have priority in subsequent periods until they receive a production authorization.

5. Selection shall be made taking into account the need to enhance opportunities for all States Parties, irrespective of their social and economic systems or geographical locations so as to avoid discrimination against any State or system, to participate in activities in the Area and to prevent monopolization of those activities.

6. Whenever fewer reserved areas than non-reserved areas are under exploitation, applications for production authorizations with respect to reserved areas shall have priority.

7. The decisions referred to in this article shall be taken as soon as possible after the close of each period.

Article 8 *Reservation of areas*

Each application, other than those submitted by the Enterprise or by any other entities for reserved areas, shall cover a total area, which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall indicate the coordinates dividing the area into two parts of equal estimated commercial value and submit all the data obtained by him with respect to both parts. Without prejudice to the powers of the Authority pursuant to article 17 of this Annex, the data to be submitted concerning polymetallic nodules shall relate to mapping, sampling, the abundance of nodules, and their metal content. Within 45 days of receiving such data, the Authority shall designate which part is to be reserved solely for the conduct of activities by the Authority through the Enterprise or in association with developing States. This designation may be deferred for a further period of 45 days if the Authority requests an independent expert to assess whether all data required by this article has been submitted. The area designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed.

Article 9
Activities in reserved areas

1. The Enterprise shall be given an opportunity to decide whether it intends to carry out activities in each reserved area. This decision may be taken at any time, unless a notification pursuant to paragraph 4 is received by the Authority, in which event the Enterprise shall take its decision within a reasonable time. The Enterprise may decide to exploit such areas in joint ventures with the interested State or entity.

2. The Enterprise may conclude contracts for the execution of part of its activities in accordance with Annex IV, article 12. It may also enter into joint ventures for the conduct of such activities with any entities which are eligible to carry out activities in the Area pursuant to article 153, paragraph 2(b). When considering such joint ventures, the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective participation.

3. The Authority may prescribe, in its rules, regulations and procedures, substantive and procedural requirements and conditions with respect to such contracts and joint ventures.

4. Any State Party which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by other developing State which is a qualified applicant, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work pursuant to article 6 of this Annex with respect to a reserved area. The plan of work shall be considered if the Enterprise decides, pursuant to paragraph 1, that it does not intend to carry out activities in that area.

Article 10
Preference and priority among applicants

An operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4(c), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. However, such preference or priority may be withdrawn if the operator's performance has not been satisfactory.

Article 11
Joint arrangements

1. Contracts may provide for joint arrangements between the contractor and the Authority through the Enterprise, in the form of joint ventures or production sharing, as well as any other form of joint arrangement, which shall have the same protection against revision, suspension or termination as contracts with the Authority.

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in article 13 of this Annex.

3. Partners in joint ventures with the Enterprise shall be liable for the payments required by article 13 of this Annex to the extent of their share in the joint ventures, subject to financial incentives as provided for in that article.

Article 12
Activities carried out by the Enterprise

1. Activities in the Area carried out by the Enterprise pursuant to article 153, paragraph 2(a), shall be governed by Part XI, the rules, regulations and procedures of the Authority and its relevant decisions.

2. Any plan of work submitted by the Enterprise shall be accompanied by evidence supporting its financial and technical capabilities.

Article 13
Financial terms of contracts

1. In adopting rules, regulations and procedures concerning the financial terms of a contract between the Authority and the entities referred to in article 153, paragraph 2(b), and in negotiating those financial terms in accordance with Part XI and those rules, regulations and procedures, the Authority shall be guided by the following objectives:

- (a) to ensure optimum revenues for the Authority from the proceeds of commercial production;
- (b) to attract investments and technology to the exploration and exploitation of the Area;
- (c) to ensure equality of financial treatment and comparable financial obligations for contractors;
- (d) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing States or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing States;
- (e) to enable the Enterprise to engage in seabed mining effectively at the same time as the entities referred to in article 153, paragraph 2(b); and
- (f) to ensure that, as a result of the financial incentives provided to contractors under paragraph 14, under the terms of contracts reviewed in accordance with article 19 of this Annex or under the provisions of article 11 of this Annex with respect to joint ventures, contractors are not subsidized so as to be given an artificial competitive advantage with respect to land-based miners.

2. A fee shall be levied for the administrative cost of processing an application for approval of a plan of work in the form of a contract and shall be fixed at an amount of \$US 500,000 per application. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant.

3. A contractor shall pay an annual fixed fee of \$US 1 million from the date of entry into force of the contract. If the approved date of commencement of commercial production is postponed because of a delay in issuing the production authorization, in accordance with article 151, the annual fixed fee shall be waived for the period of postponement. From the date of commencement of commercial production, the contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

4. Within a year of the date of commencement of commercial production, in conformity with paragraph 3, a contractor shall choose to make his financial contribution to the Authority by either:
- (a) paying a production charge only; or
 - (b) paying a combination of a production charge and a share of net proceeds.
5. (a) If a contractor chooses to make his financial contribution to the Authority by paying a production charge only, it shall be fixed at a percentage of the market value of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:
- (i) years 1-10 of commercial production 5 per cent
 - (ii) years 11 to the end of commercial production 12 per cent
- (b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules extracted from the area covered by the contract and the average price for those metals during the relevant accounting year, as defined in paragraphs 7 and 8.
6. If a contractor chooses to make his financial contribution to the Authority by paying a combination of a production charge and a share of net proceeds, such payments shall be determined as follows:
- (a) The production charge shall be fixed at a percentage of the market value, determined in accordance with subparagraph (b), of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:
 - (i) first period of commercial production 2 per cent
 - (ii) second period of commercial production 4 per centIf, in the second period of commercial production, as defined in subparagraph (d), the return on investment in any accounting year as defined in subparagraph (m) falls below 15 per cent as a result of the payment of the production charge at 4 per cent, the production charge shall be 2 per cent instead of 4 per cent in that accounting year.
 - (b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract and the average price for those metals during the relevant accounting year as defined in paragraphs 7 and 8.
 - (c) (i) The Authority's share of net proceeds shall be taken out of that portion of the contractor's net proceeds which is attributable to the mining of the resources of the area covered by the contract, referred to hereinafter as attributable net proceeds.
 - (ii) The Authority's share of attributable net proceeds shall be determined in accordance with the following incremental schedule:

<i>Portion of attributable net proceeds</i>	<i>Share of the Authority</i>	
	<i>First period of commercial production</i>	<i>Second period of commercial production</i>
That portion representing a return on investment which is greater than 0 per cent, but less than 10 per cent	35 per cent	40 per cent
That portion representing a return on investment which is 10 per cent or greater, but less than 20 per cent	42.5 per cent	50 per cent
That portion representing a return on investment which is 20 per cent or greater	50 per cent	70 per cent

- (d) (i) The first period of commercial production referred to in subparagraphs (a) and (c) shall commence in the first accounting year of commercial production and terminate in the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus, as follows:
- In the first accounting year during which development costs are incurred, unrecovered development costs shall equal the development costs less cash surplus in that year. In each subsequent accounting year, unrecovered development costs shall equal the unrecovered development costs at the end of the preceding accounting year, plus interest thereon at the rate of 10 per cent per annum, plus development costs incurred in the current accounting year and less contractor's cash surplus in the current accounting year. The accounting year in which unrecovered development costs become zero for the first time shall be the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus. The contractor's cash surplus in any accounting year shall be his gross proceeds less his operating costs and less his payments to the Authority under subparagraph (c).
- (ii) The second period of commercial production shall commence in the accounting year following the termination of the first period of commercial production and shall continue until the end of the contract.
- (e) "Attributable net proceeds" means the product of the contractor's net proceeds and the ratio of the development costs in the mining sector to the contractor's development costs. If the contractor engages in mining, transporting polymetallic nodules and production primarily of three processed metals,

namely, cobalt, copper and nickel, the amount of attributable net proceeds shall not be less than 25 per cent of the contractor's net proceeds. Subject to subparagraph (n), in all other cases, including those where the contractor engages in mining, transporting polymetallic nodules, and production primarily of four processed metals, namely, cobalt, copper, manganese and nickel, the Authority may, in its rules, regulations and procedures, prescribe appropriate floors which shall bear the same relationship to each case as the 25 per cent floor does to the three-metal case.

- (f) "Contractor's net proceeds" means the contractor's gross proceeds less his operating costs and less the recovery of his development costs as set out in subparagraph (j).
- (g)
 - (i) If the contractor engages in mining, transporting polymetallic nodules and production of processed metals, "contractor's gross proceeds" means the gross revenues from the sale of the processed metals and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.
 - (ii) In all cases other than those specified in subparagraphs (g)(i) and (n)(iii), "contractor's gross proceeds" means the gross revenues from the sale of the semi-processed metals from the polymetallic nodules recovered from the area covered by the contract, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.
- (h) "Contractor's development costs" means:
 - (i) all expenditures incurred prior to the commencement of commercial production which are directly related to the development of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract in all cases other than that specified in subparagraph (n), in conformity with generally recognized accounting principles, including, *inter alia*, costs of machinery, equipment, ships, processing plant, construction, buildings, land, roads, prospecting and exploration of the area covered by the contract, research and development, interest, required leases, licences and fees; and
 - (ii) expenditures similar to those set forth in (i) above incurred subsequent to the commencement of commercial production and necessary to carry out the plan of work, except those chargeable to operating costs.
- (i) The proceeds from the disposal of capital assets and the market value of those capital assets which are no longer required for operations under the contract and which are not sold shall be deducted from the contractor's development costs during the relevant accounting year. When these deductions exceed the contractor's development costs the excess shall be added to the contractor's gross proceeds.

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- (j) The contractor's development costs incurred prior to the commencement of commercial production referred to in subparagraphs (h)(i) and (n)(iv) shall be recovered in 10 equal annual instalments from the date of commencement of commercial production. The contractor's development costs incurred subsequent to the commencement of commercial production referred to in subparagraphs (h)(ii) and (n)(iv) shall be recovered in 10 or fewer equal annual instalments so as to ensure their complete recovery by the end of the contract.
 - (k) "Contractor's operating costs" means all expenditures incurred after the commencement of commercial production in the operation of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract, in conformity with generally recognized accounting principles, including, *inter alia*, the annual fixed fee or the production charge, whichever is greater, expenditures for wages, salaries, employee benefits, materials, services, transporting, processing and marketing costs, interest, utilities, preservation of the marine environment, overhead and administrative costs specifically related to operations under the contract, and any net operating losses carried forward or backward as specified herein. Net operating losses may be carried forward for two consecutive years except in the last two years of the contract in which case they may be carried backward to the two preceding years.
 - (l) If the contractor engages in mining, transporting of polymetallic nodules, and production of processed and semi-processed metals, "development costs of the mining sector" means the portion of the contractor's development costs which is directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles, and the financial rules, regulations and procedures of the Authority, including, *inter alia*, application fee, annual fixed fee and, where applicable, costs of prospecting and exploration of the area covered by the contract, and a portion of research and development costs.
 - (m) "Return on investment" in any accounting year means the ratio of attributable net proceeds in that year to the development costs of the mining sector. For the purpose of computing this ratio the development costs of the mining sector shall include expenditures on new or replacement equipment in the mining sector less the original cost of the equipment replaced.
 - (n) If the contractor engages in mining only:
 - (i) "attributable net proceeds" means the whole of the contractor's net proceeds;
 - (ii) "contractor's net proceeds" shall be as defined in subparagraph (f);
 - (iii) "contractor's gross proceeds" means the gross revenues from the sale of the polymetallic nodules, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority;

- (iv) "contractor's development costs" means all expenditures incurred prior to the commencement of commercial production as set forth in subparagraph (h)(i), and all expenditures incurred subsequent to the commencement of commercial production as set forth in subparagraph (h)(ii), which are directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles;
 - (v) "contractor's operating costs" means the contractor's operating costs as in subparagraph (k) which are directly related to the mining of the resources of the area covered by the contract in conformity with generally recognized accounting principles;
 - (vi) "return on investment" in any accounting year means the ratio of the contractor's net proceeds in that year to the contractor's development costs. For the purpose of computing this ratio, the contractor's development costs shall include expenditures on new or replacement equipment less the original cost of the equipment replaced.
- (o) The costs referred to in subparagraphs (h), (k), (l) and (n) in respect of interest paid by the contractor shall be allowed to the extent that, in all the circumstances, the Authority approves, pursuant to article 4, paragraph 1, of this Annex, the debt-equity ratio and the rates of interest as reasonable, having regard to existing commercial practice.
 - (p) The costs referred to in this paragraph shall not be interpreted as including payments of corporate income taxes or similar charges levied by States in respect of the operations of the contractor.
7. (a) "Processed metals", referred to in paragraphs 5 and 6, means the metals in the most basic form in which they are customarily traded on international terminal markets. For this purpose, the Authority shall specify, in its financial rules, regulations and procedures, the relevant international terminal market. For the metals which are not traded on such markets, "processed metals" means the metals in the most basic form in which they are customarily traded in representative arm's length transactions.
- (b) If the Authority cannot otherwise determine the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract referred to in paragraphs 5(b) and 6(b), the quantity shall be determined on the basis of the metal content of the nodules, processing recovery efficiency and other relevant factors, in accordance with the rules, regulations and procedures of the Authority and in conformity with generally recognized accounting principles.
8. If an international terminal market provides a representative pricing mechanism for processed metals, polymetallic nodules and semi-processed metals from the nodules, the average price on that market shall be used. In all other cases, the Authority shall, after consulting the contractor, determine a fair price for the said products in accordance with paragraph 9.

9. (a) All costs, expenditures, proceeds and revenues and all determinations of price and value referred to in this article shall be the result of free market or arm's length transactions. In the absence thereof, they shall be determined by the Authority, after consulting the contractor, as though they were the result of free market or arm's length transactions, taking into account relevant transactions in other markets.
- (b) In order to ensure compliance with and enforcement of the provisions of this paragraph, the Authority shall be guided by the principles adopted for, and the interpretation given to, arm's length transactions by the Commission on Transnational Corporations of the United Nations, the Group of Experts on Tax Treaties between Developing and Developed Countries and other international organizations, and shall, in its rules, regulations and procedures, specify uniform and internationally acceptable accounting rules and procedures, and the means of selection by the contractor of certified independent accountants acceptable to the Authority for the purpose of carrying out auditing in compliance with those rules, regulations and procedures.

10. The contractor shall make available to the accountants, in accordance with the financial rules, regulations and procedures of the Authority, such financial data as are required to determine compliance with this article.

11. All costs, expenditures, proceeds and revenues, and all prices and values referred to in this article, shall be determined in accordance with generally recognized accounting principles and the financial rules, regulations and procedures of the Authority.

12. Payments to the Authority under paragraphs 5 and 6 shall be made in freely usable currencies or currencies which are freely available and effectively usable on the major foreign exchange markets or, at the contractor's option, in the equivalents of processed metals at market value. The market value shall be determined in accordance with paragraph 5(b). The freely usable currencies and currencies which are freely available and effectively usable on the major foreign exchange markets shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice.

13. All financial obligations of the contractor to the Authority, as well as all his fees, costs, expenditures, proceeds and revenues referred to in this article, shall be adjusted by expressing them in constant terms relative to a base year.

14. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis, to contractors to further the objectives set out in paragraph 1.

15. In the event of a dispute between the Authority and a contractor over the interpretation or application of the financial terms of a contract, either party may submit the dispute to binding commercial arbitration, unless both parties agree to settle the dispute by other means, in accordance with article 188, paragraph 2.

Article 14
Transfer of data

1. The operator shall transfer to the Authority, in accordance with its rules, regulations and procedures and the terms and conditions of the plan of work, at time intervals determined by the Authority all data which are both necessary for and relevant to the effective exercise of the powers and functions of the principal organs of the Authority in respect of the area covered by the plan of work.

2. Transferred data in respect of the area covered by the plan of work, deemed proprietary, may only be used for the purposes set forth in this article. Data necessary for the formulation by the Authority of rules, regulations and procedures concerning protection of the marine environment and safety, other than equipment design data, shall not be deemed proprietary.

3. Data transferred to the Authority by prospectors, applicants for contracts or contractors, deemed proprietary, shall not be disclosed by the Authority to the Enterprise or to anyone external to the Authority, but data on the reserved areas may be disclosed to the Enterprise. Such data transferred by such persons to the Enterprise shall not be disclosed by the Enterprise to the Authority or to anyone external to the Authority.

Article 15
Training programmes

The contractor shall draw up practical programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all activities in the Area which are covered by the contract, in accordance with article 144, paragraph 2.

Article 16
Exclusive right to explore and exploit

The Authority shall, pursuant to Part XI and its rules, regulations and procedures, accord the operator the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of resources and shall ensure that no other entity operates in the same area for a different category of resources in a manner which might interfere with the operations of the operator. The operator shall have security of tenure in accordance with article 153, paragraph 6.

Article 17
Rules, regulations and procedures of the Authority

1. The Authority shall adopt and uniformly apply rules, regulations and procedures in accordance with article 160, paragraph 2(f)(ii), and article 162, paragraph 2(o)(ii), for the exercise of its functions as set forth in Part XI on, *inter alia*, the following matters:

- (a) administrative procedures relating to prospecting, exploration and exploitation in the Area;
- (b) operations:
 - (i) size of area;
 - (ii) duration of operations;

- (iii) performance requirements including assurances pursuant to article 4, paragraph 6(c), of this Annex;
 - (iv) categories of resources;
 - (v) renunciation of areas;
 - (vi) progress reports;
 - (vii) submission of data;
 - (viii) inspection and supervision of operations;
 - (ix) prevention of interference with other activities in the marine environment;
 - (x) transfer of rights and obligations by a contractor;
 - (xi) procedures for transfer of technology to developing States in accordance with article 144 and for their direct participation;
 - (xii) mining standards and practices, including those relating to operational safety, conservation of the resources and the protection of the marine environment;
 - (xiii) definition of commercial production;
 - (xiv) qualification standards for applicants;
 - (c) financial matters:
 - (i) establishment of uniform and non-discriminatory costing and accounting rules and the method of selection of auditors;
 - (ii) apportionment of proceeds of operations;
 - (iii) the incentives referred to in article 13 of this Annex;
 - (d) implementation of decisions taken pursuant to article 151, paragraph 10, and article 164, paragraph 2(d).
2. Rules, regulations and procedures on the following items shall fully reflect the objective criteria set out below:
- (a) Size of areas:

The Authority shall determine the appropriate size of areas for exploration which may be up to twice as large as those for exploitation in order to permit intensive exploration operations. The size of area shall be calculated to satisfy the requirements of article 8 of this Annex on reservation of areas as well as stated production requirements consistent with article 151 in accordance with the terms of the contract taking into account the state of the art of technology then available for seabed mining and the relevant physical characteristics of the areas. Areas shall be neither smaller nor larger than are necessary to satisfy this objective.
 - (b) Duration of operations:
 - (i) Prospecting shall be without time-limit;
 - (ii) Exploration should be of sufficient duration to permit a thorough survey of the specific area, the design and construction of mining equipment for the area and the design and construction of small and medium-size processing plants for the purpose of testing mining and processing systems;
 - (iii) The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability. Exploitation should be of

sufficient duration to permit commercial extraction of minerals of the area and should include a reasonable time period for construction of commercial-scale mining and processing systems, during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to give the Authority an opportunity to amend the terms and conditions of the plan of work at the time it considers renewal in accordance with rules, regulations and procedures which it has adopted subsequent to approving the plan of work.

(c) Performance requirements:

The Authority shall require that during the exploration stage periodic expenditures be made by the operator which are reasonably related to the size of the area covered by the plan of work and the expenditures which would be expected of a *bona fide* operator who intended to bring the area into commercial production within the time-limits established by the Authority. The required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalently in use. The Authority shall establish a maximum time interval, after the exploration stage is completed and the exploitation stage begins, to achieve commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the termination of the exploration stage and the commencement of the exploitation stage. Accordingly, the interval to bring an area into commercial production should take into account the time necessary for this construction after the completion of the exploration stage and reasonable allowance should be made for unavoidable delays in the construction schedule. Once commercial production is achieved, the Authority shall within reasonable limits and taking into consideration all relevant factors require the operator to maintain commercial production throughout the period of the plan of work.

(d) Categories of resources:

In determining the category of resources in respect of which a plan of work may be approved, the Authority shall give emphasis *inter alia* to the following characteristics:

- (i) that certain resources require the use of similar mining methods; and
- (ii) that some resources can be developed simultaneously without undue interference between operators developing different resources in the same area.

Nothing in this subparagraph shall preclude the Authority from approving a plan of work with respect to more than one category of resources in the same area to the same applicant.

(e) Renunciation of areas:

The operator shall have the right at any time to renounce without penalty the whole or part of his rights in the area covered by a plan of work.

(f) Protection of the marine environment:

Rules, regulations and procedures shall be drawn up in order to secure effective protection of the marine environment from harmful effects directly resulting from activities in the Area or from shipboard processing immediately above a mine site of minerals derived from that mine site, taking into account the extent to which such harmful effects may directly result from drilling, dredging, coring and excavation and from disposal, dumping and discharge into the marine environment of sediment, wastes or other effluents.

(g) Commercial production:

Commercial production shall be deemed to have begun if an operator engages in sustained large-scale recovery operations which yield a quantity of materials sufficient to indicate clearly that the principal purpose is large-scale production rather than production intended for information gathering, analysis or the testing of equipment or plant.

*Article 18
Penalties*

1. A contractor's rights under the contract may be suspended or terminated only in the following cases:

- (a) if, in spite of warnings by the Authority, the contractor has conducted his activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the contract, Part XI and the rules, regulations and procedures of the Authority; or
- (b) if the contractor has failed to comply with a final binding decision of the dispute settlement body applicable to him.

2. In the case of any violation of the contract not covered by paragraph 1(a), or in lieu of suspension or termination under paragraph 1(a), the Authority may impose upon the contractor monetary penalties proportionate to the seriousness of the violation.

3. Except for emergency orders under article 162, paragraph 2(w), the Authority may not execute a decision involving monetary penalties, suspension or termination until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to him pursuant to Part XI, section 5.

*Article 19
Revision of contract*

1. When circumstances have arisen or are likely to arise which, in the opinion of either party, would render the contract inequitable or make it impracticable or impossible to achieve the objectives set out in the contract or in Part XI, the parties shall enter into negotiations to revise it accordingly.

2. Any contract entered into in accordance with article 153, paragraph 3, may be revised only with the consent of the parties.

Article 20
Transfer of rights and obligations

The rights and obligations arising under a contract may be transferred only with the consent of the Authority, and in accordance with its rules, regulations and procedures. The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant and assumes all of the obligations of the transferor and if the transfer does not confer to the transferee a plan of work, the approval of which would be forbidden by article 6, paragraph 3(c), of this Annex.

Article 21
Applicable law

1. The contract shall be governed by the terms of the contract, the rules, regulations and procedures of the Authority, Part XI and other rules of international law not incompatible with this Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under this Convention relating to the rights and obligations of the Authority and of the contractor shall be enforceable in the territory of each State Party.

3. No State Party may impose conditions on a contractor that are inconsistent with Part XI. However, the application by a State Party to contractors sponsored by it, or to ships flying its flag, of environmental or other laws and regulations more stringent than those in the rules, regulations and procedures of the Authority adopted pursuant to article 17, paragraph 2(f), of this Annex shall not be deemed inconsistent with Part XI.

Article 22
Responsibility

The contractor shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority. Similarly, the Authority shall have responsibility or liability for any damage arising out of wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, account being taken of contributory acts or omissions by the contractor. Liability in every case shall be for the actual amount of damage.

ANNEX IV. STATUTE OF THE ENTERPRISE

Article 1
Purposes

1. The Enterprise is the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2 (a), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. In carrying out its purposes and in the exercise of its functions, the Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority.

3. In developing the resources of the Area pursuant to paragraph 1, the Enterprise shall, subject to this Convention, operate in accordance with sound commercial principles.

Article 2
Relationship to the Authority

1. Pursuant to article 170, the Enterprise shall act in accordance with the general policies of the Assembly and the directives of the Council.

2. Subject to paragraph 1, the Enterprise shall enjoy autonomy in the conduct of its operations.

3. Nothing in this Convention shall make the Enterprise liable for the acts or obligations of the Authority, or make the Authority liable for the acts or obligations of the Enterprise.

Article 3
Limitation of liability

Without prejudice to article 11, paragraph 3, of this Annex, no member of the Authority shall be liable by reason only of its membership for the acts or obligations of the Enterprise.

Article 4
Structure

The Enterprise shall have a Governing Board, a Director-General and the staff necessary for the exercise of its functions.

Article 5
Governing Board

1. The Governing Board shall be composed of 15 members elected by the Assembly in accordance with article 160, paragraph 2(c). In the election of the members of the Board, due regard shall be paid to the principle of equitable geographical distribution. In submitting nominations of candidates for election to the Board, members of the Authority shall bear in mind the need to nominate candidates of the highest standard of competence, with qualifications in relevant fields, so as to ensure the viability and success of the Enterprise.

2. Members of the Board shall be elected for four years and may be re-elected; and due regard shall be paid to the principle of rotation of membership.

3. Members of the Board shall continue in office until their successors are elected. If the office of a member of the Board becomes vacant, the Assembly shall, in accordance with article 160, paragraph 2(c), elect a new member for the remainder of his predecessor's term.

4. Members of the Board shall act in their personal capacity. In the performance of their duties they shall not seek or receive instructions from any government or from any other source. Each member of the Authority shall respect the independent character of the members of the Board and shall refrain from all attempts to influence any of them in the discharge of their duties.

5. Each member of the Board shall receive remuneration to be paid out of the funds of the Enterprise. The amount of remuneration shall be fixed by the Assembly, upon the recommendation of the Council.

6. The Board shall normally function at the principal office of the Enterprise and shall meet as often as the business of the Enterprise may require.

7. Two thirds of the members of the Board shall constitute a quorum.

8. Each member of the Board shall have one vote. All matters before the Board shall be decided by a majority of its members. If a member has a conflict of interest on a matter before the Board he shall refrain from voting on that matter.

9. Any member of the Authority may ask the Board for information in respect of its operations which particularly affect that member. The Board shall endeavour to provide such information.

Article 6
Powers and functions of the Governing Board

The Governing Board shall direct the operations of the Enterprise. Subject to this Convention, the Governing Board shall exercise the powers necessary to fulfil the purposes of the Enterprise, including powers:

- (a) to elect a Chairman from among its members;
- (b) to adopt its rules of procedure;
- (c) to draw up and submit formal written plans of work to the Council in accordance with article 153, paragraph 3, and article 162, paragraph 2(j);
- (d) to develop plans of work and programmes for carrying out the activities specified in article 170;
- (e) to prepare and submit to the Council applications for production authorizations in accordance with article 151, paragraphs 2 to 7;
- (f) to authorize negotiations concerning the acquisition of technology, including those provided for in Annex III, article 5, paragraph 3(a), (c) and (d), and to approve the results of those negotiations;
- (g) to establish terms and conditions, and to authorize negotiations, concerning joint ventures and other forms of joint arrangements referred to in Annex III, articles 9 and 11, and to approve the results of such negotiations;
- (h) to recommend to the Assembly what portion of the net income of the Enterprise should be retained as its reserves in accordance with article 160, paragraph 2(f), and article 10 of this Annex;
- (i) to approve the annual budget of the Enterprise;
- (j) to authorize the procurement of goods and services in accordance with article 12, paragraph 3, of this Annex;
- (k) to submit an annual report to the Council in accordance with article 9 of this Annex;
- (l) to submit to the Council for the approval of the Assembly draft rules in respect of the organization, management, appointment and dismissal of the staff of the Enterprise and to adopt regulations to give effect to such rules;
- (m) to borrow funds and to furnish such collateral or other security as it may determine in accordance with article 11, paragraph 2, of this Annex;

- (n) to enter into any legal proceedings, agreements and transactions and to take any other actions in accordance with article 13 of this Annex;
- (o) to delegate, subject to the approval of the Council, any non-discretionary powers to the Director-General and to its committees.

Article 7
Director-General and staff of the Enterprise

1. The Assembly shall, upon the recommendation of the Council and the nomination of the Governing Board, elect the Director-General of the Enterprise who shall not be a member of the Board. The Director-General shall hold office for a fixed term, not exceeding five years, and may be re-elected for further terms.

2. The Director-General shall be the legal representative and chief executive of the Enterprise and shall be directly responsible to the Board for the conduct of the operations of the Enterprise. He shall be responsible for the organization, management, appointment and dismissal of the staff of the Enterprise in accordance with the rules and regulations referred to in article 6, subparagraph (l), of this Annex. He shall participate, without the right to vote, in the meetings of the Board and may participate, without the right to vote, in the meetings of the Assembly and the Council when these organs are dealing with matters concerning the Enterprise.

3. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency and of technical competence. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable geographical basis.

4. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any government or from any other source external to the Enterprise. They shall refrain from any action which might reflect on their position as international officials of the Enterprise responsible only to the Enterprise. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

5. The responsibilities set forth in article 168, paragraph 2, are equally applicable to the staff of the Enterprise.

Article 8
Location

The Enterprise shall have its principal office at the seat of the Authority. The Enterprise may establish other offices and facilities in the territory of any State Party with the consent of that State Party.

Article 9
Reports and financial statements

1. The Enterprise shall, not later than three months after the end of each financial year, submit to the Council for its consideration an annual report containing an audited statement of its accounts and shall transmit to the

Council at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

2. The Enterprise shall publish its annual report and such other reports as it finds appropriate.

3. All reports and financial statements referred to in this article shall be distributed to the members of the Authority.

Article 10
Allocation of net income

1. Subject to paragraph 3, the Enterprise shall make payments to the Authority under Annex III, article 13, or their equivalent.

2. The Assembly shall, upon the recommendation of the Governing Board, determine what portion of the net income of the Enterprise shall be retained as reserves of the Enterprise. The remainder shall be transferred to the Authority.

3. During an initial period required for the Enterprise to become self-supporting, which shall not exceed 10 years from the commencement of commercial production by it, the Assembly shall exempt the Enterprise from the payments referred to in paragraph 1, and shall leave all of the net income of the Enterprise in its reserves.

Article 11
Finances

1. The funds of the Enterprise shall include:
 - (a) amounts received from the Authority in accordance with article 173, paragraph 2(b);
 - (b) voluntary contributions made by States Parties for the purpose of financing activities of the Enterprise;
 - (c) amounts borrowed by the Enterprise in accordance with paragraphs 2 and 3;
 - (d) income of the Enterprise from its operations;
 - (e) other funds made available to the Enterprise to enable it to commence operations as soon as possible and to carry out its functions.
2.
 - (a) The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of a State Party, the Enterprise shall obtain the approval of that State Party. The total amount of borrowings shall be approved by the Council upon the recommendation of the Governing Board.
 - (b) States Parties shall make every reasonable effort to support applications by the Enterprise for loans on capital markets and from international financial institutions.
3.
 - (a) The Enterprise shall be provided with the funds necessary to explore and exploit one mine site, and to transport, process and market the minerals recovered therefrom and the nickel, copper, cobalt and manganese obtained, and to meet its initial administrative expenses. The amount of the said funds, and the criteria and factors for its adjustment, shall be included by the

Preparatory Commission in the draft rules, regulations and procedures of the Authority.

- (b) All States Parties shall make available to the Enterprise an amount equivalent to one half of the funds referred to in subparagraph (a) by way of long-term interest-free loans in accordance with the scale of assessments for the United Nations regular budget in force at the time when the assessments are made, adjusted to take into account the States which are not members of the United Nations. Debts incurred by the Enterprise in raising the other half of the funds shall be guaranteed by all States Parties in accordance with the same scale.
- (c) If the sum of the financial contributions of States Parties is less than the funds to be provided to the Enterprise under subparagraph (a), the Assembly shall, at its first session, consider the extent of the shortfall and adopt by consensus measures for dealing with this shortfall, taking into account the obligation of States Parties under subparagraphs (a) and (b) and any recommendations of the Preparatory Commission.
- (d)
 - (i) Each State Party shall, within 60 days after the entry into force of this Convention, or within 30 days after the deposit of its instrument of ratification or accession, whichever is later, deposit with the Enterprise irrevocable, non-negotiable, non-interest-bearing promissory notes in the amount of the share of such State Party of interest-free loans pursuant to subparagraph (b).
 - (ii) The Board shall prepare, at the earliest practicable date after this Convention enters into force, and thereafter at annual or other appropriate intervals, a schedule of the magnitude and timing of its requirements for the funding of its administrative expenses and for activities carried out by the Enterprise in accordance with article 170 and article 12 of this Annex.
 - (iii) The States Parties shall, thereupon, be notified by the Enterprise, through the Authority, of their respective shares of the funds in accordance with subparagraph (b), required for such expenses. The Enterprise shall encash such amounts of the promissory notes as may be required to meet the expenditure referred to in the schedule with respect to interest-free loans.
 - (iv) States Parties shall, upon receipt of the notification, make available their respective shares of debt guarantees for the Enterprise in accordance with subparagraph (b).
- (e)
 - (i) If the Enterprise so requests, State Parties may provide debt guarantees in addition to those provided in accordance with the scale referred to in subparagraph (b).
 - (ii) In lieu of debt guarantees, a State Party may make a voluntary contribution to the Enterprise in an amount equivalent to that portion of the debts which it would otherwise be liable to guarantee.
- (f) Repayment of the interest-bearing loans shall have priority over the repayment of the interest-free loans. Repayment of interest-free loans shall be in accordance with a schedule

adopted by the Assembly, upon the recommendation of the Council and the advice of the Board. In the exercise of this function the Board shall be guided by the relevant provisions of the rules, regulations and procedures of the Authority, which shall take into account the paramount importance of ensuring the effective functioning of the Enterprise and, in particular, ensuring its financial independence.

- (g) Funds made available to the Enterprise shall be in freely usable currencies or currencies which are freely available and effectively usable in the major foreign exchange markets. These currencies shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice. Except as provided in paragraph 2, no State Party shall maintain or impose restrictions on the holding, use or exchange by the Enterprise of these funds.
- (h) "Debt guarantee" means a promise of a State Party to creditors of the Enterprise to pay, *pro rata* in accordance with the appropriate scale, the financial obligations of the Enterprise covered by the guarantee following notice by the creditors to the State Party of a default by the Enterprise. Procedures for the payment of those obligations shall be in conformity with the rules, regulations and procedures of the Authority.

4. The funds, assets and expenses of the Enterprise shall be kept separate from those of the Authority. This article shall not prevent the Enterprise from making arrangements with the Authority regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid by either on behalf of the other.

5. The records, books and accounts of the Enterprise, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Council.

Article 12 Operations

1. The Enterprise shall propose to the Council projects for carrying out activities in accordance with article 170. Such proposals shall include a formal written plan of work for activities in the Area in accordance with article 153, paragraph 3, and all such other information and data as may be required from time to time for its appraisal by the Legal and Technical Commission and approval by the Council.

2. Upon approval by the Council, the Enterprise shall execute the project on the basis of the formal written plan of work referred to in paragraph 1.

- 3. (a) If the Enterprise does not possess the goods and services required for its operations it may procure them. For that purpose, it shall issue invitations to tender and award contracts to bidders offering the best combination of quality, price and delivery time.
- (b) If there is more than one bid offering such a combination, the contract shall be awarded in accordance with:
 - (i) the principle of non-discrimination on the basis of political or other considerations not relevant to the

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- carrying out of operations with due diligence and efficiency; and
 - (ii) guidelines approved by the Council with regard to the preferences to be accorded to goods and services originating in developing States, including the land-locked and geographically disadvantaged among them.
 - (c) The Governing Board may adopt rules determining the special circumstances in which the requirement of invitations to bid may, in the best interests of the Enterprise, be dispensed with.
4. The Enterprise shall have title to all minerals and processed substances produced by it.
5. The Enterprise shall sell its products on a non-discriminatory basis. It shall not give non-commercial discounts.
6. Without prejudice to any general or special power conferred on the Enterprise under any other provision of this Convention, the Enterprise shall exercise such powers incidental to its business as shall be necessary.
7. The Enterprise shall not interfere in the political affairs of any State Party; nor shall it be influenced in its decisions by the political character of the State Party concerned. Only commercial considerations shall be relevant to its decisions, and these considerations shall be weighed impartially in order to carry out the purposes specified in article 1 of this Annex.

Article 13

Legal status, privileges and immunities

1. To enable the Enterprise to exercise its functions, the status, privileges and immunities set forth in this article shall be accorded to the Enterprise in the territories of States Parties. To give effect to this principle the Enterprise and States Parties may, where necessary, enter into special agreements.
2. The Enterprise shall have such legal capacity as is necessary for the exercise of its functions and the fulfilment of its purposes and, in particular, the capacity:
- (a) to enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;
 - (b) to acquire, lease, hold and dispose of immovable and movable property;
 - (c) to be a party to legal proceedings.
3. (a) Actions may be brought against the Enterprise only in a court of competent jurisdiction in the territory of a State Party in which the Enterprise:
- (i) has an office or facility;
 - (ii) has appointed an agent for the purpose of accepting service or notice of process;
 - (iii) has entered into a contract for goods or services;
 - (iv) has issued securities; or
 - (v) is otherwise engaged in commercial activity.
- (b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Enterprise.

4. (a) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.
 - (b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature.
 - (c) The Enterprise and its employees shall respect local laws and regulations in any State or territory in which the Enterprise or its employees may do business or otherwise act.
 - (d) States Parties shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by them to entities conducting commercial activities in their territories. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by States Parties for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis.
 - (e) States Parties may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities.
5. The Enterprise shall negotiate with the host countries in which its offices and facilities are located for exemption from direct and indirect taxation.
6. Each State Party shall take such action as is necessary for giving effect in terms of its own law to the principles set forth in this Annex and shall inform the Enterprise of the specific action which it has taken.
7. The Enterprise may waive any of the privileges and immunities conferred under this article or in the special agreements referred to in paragraph 1 to such extent and upon such conditions as it may determine.

ANNEX V. CONCILIATION

SECTION 1. CONCILIATION PROCEDURE PURSUANT TO SECTION 1 OF PART XV

Article 1 Institution of proceedings

If the parties to a dispute have agreed, in accordance with article 284, to submit it to conciliation under this section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

Article 2 List of conciliators

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the

highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary. The name of a conciliator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such conciliator shall continue to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

Article 3
Constitution of conciliation commission

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

- (a) Subject to subparagraph (g), the conciliation commission shall consist of five members.
- (b) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in article 2 of this Annex, one of whom may be its national, unless the parties otherwise agree. Such appointments shall be included in the notification referred to in article 1 of this Annex.
- (c) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (b) within 21 days of receipt of the notification referred to in article 1 of this Annex. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointments in accordance with subparagraph (e).
- (d) Within 30 days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in article 2 of this Annex, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).
- (e) Within 30 days of the receipt of a request under subparagraph (c) or (d), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in article 2 of this Annex in consultation with the parties to the dispute.
- (f) Any vacancy shall be filled in the manner prescribed for the initial appointment.
- (g) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint conciliators separately.
- (h) In disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply subparagraphs (a) to (f) in so far as possible.

Article 4
Procedure

The conciliation commission shall, unless the parties otherwise agree, determine its own procedure. The commission may, with the consent of the parties to the dispute, invite any State Party to submit to it its views orally or in writing. Decisions of the commission regarding procedural matters, the report and recommendations shall be made by a majority vote of its members.

Article 5
Amicable settlement

The commission may draw the attention of the parties to any measures which might facilitate an amicable settlement of the dispute.

Article 6
Functions of the commission

The commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

Article 7
Report

1. The commission shall report within 12 months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

Article 8
Termination

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of three months has expired from the date of transmission of the report to the parties.

Article 9
Fees and expenses

The fees and expenses of the commission shall be borne by the parties to the dispute.

Article 10
Right of parties to modify procedure

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this Annex.

**SECTION 2. COMPULSORY SUBMISSION
TO CONCILIATION PROCEDURE
PURSUANT TO SECTION 3 OF PART XV**

Article 11
Institution of proceedings

1. Any party to a dispute which, in accordance with Part XV, section 3, may be submitted to conciliation under this section, may institute the proceedings by written notification addressed to the other party or parties to the dispute.

2. Any party to the dispute, notified under paragraph 1, shall be obliged to submit to such proceedings.

Article 12
Failure to reply or to submit to conciliation

The failure of a party or parties to the dispute to reply to notification of institution of proceedings or to submit to such proceedings shall not constitute a bar to the proceedings.

Article 13
Competence

A disagreement as to whether a conciliation commission acting under this section has competence shall be decided by the commission.

Article 14
Application of section 1

Articles 2 to 10 of section 1 of this Annex apply subject to this section.

**ANNEX VI. STATUTE OF THE INTERNATIONAL
TRIBUNAL
FOR THE LAW OF THE SEA**

Article 1
General provisions

1. The International Tribunal for the Law of the Sea is constituted and shall function in accordance with the provisions of this Convention and this Statute.

2. The seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

3. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

4. A reference of a dispute to the Tribunal shall be governed by the provisions of Parts XI and XV.

SECTION 1. ORGANIZATION OF THE TRIBUNAL

Article 2 Composition

1. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3 Membership

1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.

Article 4 Nominations and elections

1. Each State Party may nominate not more than two persons having the qualifications prescribed in article 2 of this Annex. The members of the Tribunal shall be elected from the list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the States Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held within six months of the date of entry into force of this Convention.

4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the States Parties convened by the Secretary-General of the United Nations in the case of the first election and by a procedure agreed to by the States Parties in the case of subsequent elections. Two thirds of the States Parties shall constitute a quorum at that meeting. The persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of the States Parties present and voting, provided that such majority includes a majority of the States Parties.

Article 5
Term of office

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the members elected at the first election, the terms of seven members shall expire at the end of three years and the terms of seven more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.

4. In the case of the resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of that letter.

Article 6
Vacancies

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4 of this Annex, and the date of the election shall be fixed by the President of the Tribunal after consultation with the States Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 7
Incompatible activities

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed.

2. No member of the Tribunal may act as agent, counsel or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 8
Conditions relating to participation of members in a particular case

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 9

Consequence of ceasing to fulfil required conditions

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10

Privileges and immunities

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11

Solemn declaration by members

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12

President, Vice-President and Registrar

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.

2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

3. The President and the Registrar shall reside at the seat of the Tribunal.

Article 13

Quorum

1. All available members of the Tribunal shall sit; a quorum of 11 elected members shall be required to constitute the Tribunal.

2. Subject to article 17 of this Annex, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard to the effective functioning of the chambers as provided for in articles 14 and 15 of this Annex.

3. All disputes and applications submitted to the Tribunal shall be heard and determined by the Tribunal, unless article 14 of this Annex applies, or the parties request that it shall be dealt with in accordance with article 15 of this Annex.

Article 14
Seabed Disputes Chamber

A Seabed Disputes Chamber shall be established in accordance with the provisions of section 4 of this Annex. Its jurisdiction, powers and functions shall be as provided for in Part XI, section 5.

Article 15
Special chambers

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.

2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

3. With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

4. Disputes shall be heard and determined by the chambers provided for in this article if the parties so request.

5. A judgment given by any of the chambers provided for in this article and in article 14 of this Annex shall be considered as rendered by the Tribunal.

Article 16
Rules of the Tribunal

The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

Article 17
Nationality of members

1. Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

2. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of the parties, any other party may choose a person to participate as a member of the Tribunal.

3. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal.

4. This article applies to the chambers referred to in articles 14 and 15 of this Annex. In such cases, the President, in consultation with the parties, shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be considered as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by articles 2, 8 and 11 of this Annex. They shall participate in the decision on terms of complete equality with their colleagues.

Article 18
Remuneration of members

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in any year the total sum payable to any member as special allowance shall not exceed the amount of the annual allowance.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.

4. The members chosen under article 17 of this Annex, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. The salaries, allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account the workload of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be determined at meetings of the States Parties, on the proposal of the Tribunal.

7. Regulations adopted at meetings of the States Parties shall determine the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The salaries, allowances, and compensation shall be free of all taxation.

Article 19
Expenses of the Tribunal

1. The expenses of the Tribunal shall be borne by the States Parties and by the Authority on such terms and in such a manner as shall be decided at meetings of the States Parties.

2. When an entity other than a State Party or the Authority is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

SECTION 2. COMPETENCE

Article 20
Access to the Tribunal

1. The Tribunal shall be open to States Parties.

2. The Tribunal shall be open to entities other than States Parties in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case.

Article 21
Jurisdiction

The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

Article 22
Reference of disputes subject to other agreements

If all the parties to a treaty or convention already in force and concerning the subject-matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal.

Article 23
Applicable law

The Tribunal shall decide all disputes and applications in accordance with article 293.

SECTION 3. PROCEDURE

Article 24
Institution of proceedings

1. Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by written application, addressed to the Registrar. In either case, the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith notify the special agreement or the application to all concerned.

3. The Registrar shall also notify all States Parties.

Article 25
Provisional measures

1. In accordance with article 290, the Tribunal and its Seabed Disputes Chamber shall have the power to prescribe provisional measures.

2. If the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum, the provisional measures shall be prescribed by the chamber of summary procedure formed under article 15, paragraph 3, of this Annex. Notwithstanding article 15, paragraph 4, of this Annex, such provisional measures may be adopted at the request of any party to the dispute. They shall be subject to review and revision by the Tribunal.

Article 26
Hearing

1. The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President. If neither is able to preside, the senior judge present of the Tribunal shall preside.

2. The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.

Article 27
Conduct of case

The Tribunal shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 28
Default

When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its decision, the Tribunal must satisfy itself not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and law.

Article 29
Majority for decision

1. All questions shall be decided by a majority of the members of the Tribunal who are present.
2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

Article 30
Judgment

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.
4. The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the parties to the dispute.

Article 31
Request to intervene

1. Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.
2. It shall be for the Tribunal to decide upon this request.
3. If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened.

*Article 32**Right to intervene in cases of interpretation or application*

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all States Parties forthwith.
2. Whenever pursuant to article 21 or 22 of this Annex the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to the agreement.
3. Every party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgment will be equally binding upon it.

*Article 33**Finality and binding force of decisions*

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.
2. The decision shall have no binding force except between the parties in respect of that particular dispute.
3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

*Article 34**Costs*

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

SECTION 4. SEABED DISPUTES CHAMBER*Article 35**Composition*

1. The Seabed Disputes Chamber referred to in article 14 of this Annex shall be composed of 11 members, selected by a majority of the elected members of the Tribunal from among them.
2. In the selection of the members of the Chamber, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured. The Assembly of the Authority may adopt recommendations of a general nature relating to such representation and distribution.
3. The members of the Chamber shall be selected every three years and may be selected for a second term.
4. The Chamber shall elect its President from among its members, who shall serve for the term for which the Chamber has been selected.
5. If any proceedings are still pending at the end of any three-year period for which the Chamber has been selected, the Chamber shall complete the proceedings in its original composition.
6. If a vacancy occurs in the Chamber, the Tribunal shall select a successor from among its elected members, who shall hold office for the remainder of his predecessor's term.
7. A quorum of seven of the members selected by the Tribunal shall be required to constitute the Chamber.

Article 36
Ad hoc chambers

1. The Seabed Disputes Chamber shall form an ad hoc chamber, composed of three of its members, for dealing with a particular dispute submitted to it in accordance with article 188, paragraph 1(b). The composition of such a chamber shall be determined by the Seabed Disputes Chamber with the approval of the parties.

2. If the parties do not agree on the composition of an ad hoc chamber, each party to the dispute shall appoint one member, and the third member shall be appointed by them in agreement. If they disagree, or if any party fails to make an appointment, the President of the Seabed Disputes Chamber shall promptly make the appointment or appointments from among its members, after consultation with the parties.

3. Members of the ad hoc chamber must not be in the service of, or nationals of, any of the parties to the dispute.

Article 37
Access

The Chamber shall be open to the States Parties, the Authority and the other entities referred to in Part XI, section 5.

Article 38
Applicable law

In addition to the provisions of article 293, the Chamber shall apply:

- (a) the rules, regulations and procedures of the Authority adopted in accordance with this Convention; and
- (b) the terms of contracts concerning activities in the Area in matters relating to those contracts.

Article 39
Enforcement of decisions of the Chamber

The decisions of the Chamber shall be enforceable in the territories of the States Parties in the same manner as judgments or orders of the highest court of the State Party in whose territory the enforcement is sought.

Article 40
Applicability of other sections of this Annex

1. The other sections of this Annex which are not incompatible with this section apply to the Chamber.

2. In the exercise of its functions relating to advisory opinions, the Chamber shall be guided by the provisions of this Annex relating to procedure before the Tribunal to the extent to which it recognizes them to be applicable.

SECTION 5. AMENDMENTS

Article 41 *Amendments*

1. Amendments to this Annex, other than amendments to section 4, may be adopted only in accordance with article 313 or by consensus at a conference convened in accordance with this Convention.

2. Amendments to section 4 may be adopted only in accordance with article 314.

3. The Tribunal may propose such amendments to this Statute as it may consider necessary, by written communications to the States Parties for their consideration in conformity with paragraphs 1 and 2.

ANNEX VII. ARBITRATION

Article 1 *Institution of proceedings*

Subject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2 *List of arbitrators*

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in maritime affairs and enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

2. If at any time the arbitrators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such arbitrator shall continue to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before that arbitral tribunal.

Article 3 *Constitution of arbitral tribunal*

For the purpose of proceedings under this Annex, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

- (a) Subject to subparagraph (g), the arbitral tribunal shall consist of five members.
- (b) The party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in article 2 of this Annex, who may be its national. The appointment shall be included in the notification referred to in article 1 of this Annex.

- (c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (e).
- (d) The other three members shall be appointed by agreement between the parties. They shall be chosen preferably from the list and shall be nationals of third States unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 60-day period.
- (e) Unless the parties agree that any appointment under subparagraphs (c) and (d) be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for the Law of the Sea who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in article 2 of this Annex within a period of 30 days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.
- (f) Any vacancy shall be filled in the manner prescribed for the initial appointment.
- (g) Parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties.
- (h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
Functions of arbitral tribunal

An arbitral tribunal constituted under article 3 of this Annex shall function in accordance with this Annex and the other provisions of this Convention.

*Article 5
Procedure*

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case.

*Article 6
Duties of parties to a dispute*

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, in accordance with their law and using all means at their disposal, shall:

- (a) provide it with all relevant documents, facilities and information; and
- (b) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

*Article 7
Expenses*

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

*Article 8
Required majority for decisions*

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

*Article 9
Default of appearance*

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

*Article 10
Award*

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

Article 11
Finality of award

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

Article 12
Interpretation or implementation of award

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute.

Article 13
Application to entities other than States Parties

The provisions of this Annex shall apply *mutatis mutandis* to any dispute involving entities other than States Parties.

ANNEX VIII. SPECIAL ARBITRATION

Article 1
Institution of proceedings

Subject to Part XV, any party to a dispute concerning the interpretation or application of the articles of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may submit the dispute to the special arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2
Lists of experts

1. A list of experts shall be established and maintained in respect of each of the fields of (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping.

2. The lists of experts shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Intergovernmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization, or in each case by the appropriate

subsidiary body concerned to which such organization, programme or commission has delegated this function.

3. Every State Party shall be entitled to nominate two experts in each field whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity. The names of the persons so nominated in each field shall constitute the appropriate list.

4. If at any time the experts nominated by a State Party in the list so constituted shall be fewer than two, that State Party shall be entitled to make further nominations as necessary.

5. The name of an expert shall remain on the list until withdrawn by the State Party which made the nomination, provided that such expert shall continue to serve on any special arbitral tribunal to which that expert has been appointed until the completion of the proceedings before that special arbitral tribunal.

Article 3 *Constitution of special arbitral tribunal*

For the purpose of proceedings under this Annex, the special arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

- (a) Subject to subparagraph (g), the special arbitral tribunal shall consist of five members.
- (b) The party instituting the proceedings shall appoint two members to be chosen preferably from the appropriate list or lists referred to in article 2 of this Annex relating to the matters in dispute, one of whom may be its national. The appointments shall be included in the notification referred to in article 1 of this Annex.
- (c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint two members to be chosen preferably from the appropriate list or lists relating to the matters in dispute, one of whom may be its national. If the appointments are not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointments be made in accordance with subparagraph (e).
- (d) The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be a national of a third State, unless the parties otherwise agree. If, within 30 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of the President, the appointment shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 30-day period.
- (e) Unless the parties agree that the appointment be made by a person or a third State chosen by the parties, the Secretary-General of the United Nations shall make the necessary appointments within 30 days of receipt of a request under subparagraphs (c) and (d). The appointments referred to in this subparagraph shall be made from the appropriate list or lists of experts referred to in article 2 of this Annex and in consultation with the parties to the dispute and the

appropriate international organization. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

- (f) Any vacancy shall be filled in the manner prescribed for the initial appointment.
- (g) Parties in the same interest shall appoint two members of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal.
- (h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
General provisions

Annex VII, articles 4 to 13, apply *mutatis mutandis* to the special arbitration proceedings in accordance with this Annex.

Article 5
Fact finding

1. The parties to a dispute concerning the interpretation or application of the provisions of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may at any time agree to request a special arbitral tribunal constituted in accordance with article 3 of this Annex to carry out an inquiry and establish the facts giving rise to the dispute.

2. Unless the parties otherwise agree, the findings of fact of the special arbitral tribunal acting in accordance with paragraph 1, shall be considered as conclusive as between the parties.

3. If all the parties to the dispute so request, the special arbitral tribunal may formulate recommendations which, without having the force of a decision, shall only constitute the basis for a review by the parties of the questions giving rise to the dispute.

4. Subject to paragraph 2, the special arbitral tribunal shall act in accordance with the provisions of this Annex, unless the parties otherwise agree.

**ANNEX IX. PARTICIPATION BY
INTERNATIONAL ORGANIZATIONS**

Article 1
Use of terms

For the purposes of article 305 and of this Annex, "international organization" means an intergovernmental organization constituted by States to which its member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

Article 2
Signature

An international organization may sign this Convention if a majority of its member States are signatories of this Convention. At the time of signature an international organization shall make a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States which are signatories, and the nature and extent of that competence.

Article 3
Formal confirmation and accession

1. An international organization may deposit its instrument of formal confirmation or of accession if a majority of its member States deposit or have deposited their instruments of ratification or accession.
2. The instruments deposited by the international organization shall contain the undertakings and declarations required by articles 4 and 5 of this Annex.

Article 4
Extent of participation and rights and obligations

1. The instrument of formal confirmation or of accession of an international organization shall contain an undertaking to accept the rights and obligations of States under this Convention in respect of matters relating to which competence has been transferred to it by its member States which are Parties to this Convention.
2. An international organization shall be a Party to this Convention to the extent that it has competence in accordance with the declarations, communications of information or notifications referred to in article 5 of this Annex.
3. Such an international organization shall exercise the rights and perform the obligations which its member States which are Parties would otherwise have under this Convention, on matters relating to which competence has been transferred to it by those member States. The member States of that international organization shall not exercise competence which they have transferred to it.
4. Participation of such an international organization shall in no case entail an increase of the representation to which its member States which are States Parties would otherwise be entitled, including rights in decision-making.
5. Participation of such an international organization shall in no case confer any rights under this Convention on member States of the organization which are not States Parties to this Convention.
6. In the event of a conflict between the obligations of an international organization under this Convention and its obligations under the agreement establishing the organization or any acts relating to it, the obligations under this Convention shall prevail.

Article 5
Declarations, notifications and communications

1. The instrument of formal confirmation or of accession of an international organization shall contain a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to the organization by its member States which are Parties to this Convention.

2. A member State of an international organization shall, at the time it ratifies or accedes to this Convention or at the time when the organization deposits its instrument of formal confirmation or of accession, whichever is later, make a declaration specifying the matters governed by this Convention in respect of which it has transferred competence to the organization.

3. States Parties which are member States of an international organization which is a Party to this Convention shall be presumed to have competence over all matters governed by this Convention in respect of which transfers of competence to the organization have not been specifically declared, notified or communicated by those States under this article.

4. The international organization and its member States which are States Parties shall promptly notify the depositary of this Convention of any changes to the distribution of competence, including new transfers of competence, specified in the declarations under paragraphs 1 and 2.

5. Any State Party may request an international organization and its member States which are States Parties to provide information as to which, as between the organization and its member States, has competence in respect of any specific question which has arisen. The organization and the member States concerned shall provide this information within a reasonable time. The international organization and the member States may also, on their own initiative, provide this information.

6. Declarations, notifications and communications of information under this article shall specify the nature and extent of the competence transferred.

Article 6
Responsibility and liability

1. Parties which have competence under article 5 of this Annex shall have responsibility for failure to comply with obligations or for any other violation of this Convention.

2. Any State Party may request an international organization or its member States which are States Parties for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned shall provide this information. Failure to provide this information within a reasonable time or the provision of contradictory information shall result in joint and several liability.

Article 7
Settlement of disputes

1. At the time of deposit of its instrument of formal confirmation or of accession, or at any time thereafter, an international organization shall be free to choose, by means of a written declaration, one or more of the means for the settlement of disputes concerning the interpretation or application of this Convention, referred to in article 287, paragraph 1(a), (c) or (d).

2. Part XV applies *mutatis mutandis* to any dispute between Parties to this Convention, one or more of which are international organizations.

3. When an international organization and one or more of its member States are joint parties to a dispute, or parties in the same interest, the organization shall be deemed to have accepted the same procedures for the settlement of disputes as the member States; when, however, a member State has chosen only the International Court of Justice under article 287, the organization and the member State concerned shall be deemed to have accepted arbitration in accordance with Annex VII, unless the parties to the dispute otherwise agree.

Article 8
Applicability of Part XVII

Part XVII applies *mutatis mutandis* to an international organization, except in respect of the following:

- (a) the instrument of formal confirmation or of accession of an international organization shall not be taken into account in the application of article 308, paragraph 1;
- (b)
 - (i) an international organization shall have exclusive capacity with respect to the application of articles 312 to 315, to the extent that it has competence under article 5 of this Annex over the entire subject-matter of the amendment;
 - (ii) the instrument of formal confirmation or of accession of an international organization to an amendment, the entire subject-matter over which the international organization has competence under article 5 of this Annex, shall be considered to be the instrument of ratification or accession of each of the member States which are States Parties, for the purposes of applying article 316, paragraphs 1, 2 and 3;
 - (iii) the instrument of formal confirmation or of accession of the international organization shall not be taken into account in the application of article 316, paragraphs 1 and 2, with regard to all other amendments;
- (c)
 - (i) an international organization may not denounce this Convention in accordance with article 317 if any of its member States is a State Party and if it continues to fulfil the qualifications specified in article 1 of this Annex;
 - (ii) an international organization shall denounce this Convention when none of its member States is a State Party or if the international organization no longer fulfils the qualifications specified in article 1 of this Annex. Such denunciation shall take effect immediately.

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ANNEX I

RESOLUTION I

ESTABLISHMENT OF THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

*The Third United Nations Conference on the Law of the Sea,
Having adopted the Convention on the Law of the Sea which provides
for the establishment of the International Seabed Authority and the
International Tribunal for the Law of the Sea,*

*Having decided to take all possible measures to ensure the entry into
effective operation without undue delay of the Authority and the Tribunal and
to make the necessary arrangements for the commencement of their functions,*

*Having decided that a Preparatory Commission should be established for
the fulfilment of these purposes,*

Decides as follows:

1. There is hereby established the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. Upon signature of or accession to the Convention by 50 States, the Secretary-General of the United Nations shall convene the Commission, and it shall meet no sooner than 60 days and no later than 90 days thereafter.

2. The Commission shall consist of the representatives of States and of Namibia, represented by the United Nations Council for Namibia, which have signed the Convention or acceded to it. The representatives of signatories of the Final Act may participate fully in the deliberations of the Commission as observers but shall not be entitled to participate in the taking of decisions.

3. The Commission shall elect its Chairman and other officers.

4. The Rules of Procedure of the Third United Nations Conference on the Law of the Sea shall apply *mutatis mutandis* to the adoption of the rules of procedure of the Commission.

5. The Commission shall:

-
- (a) prepare the provisional agenda for the first session of the Assembly and of the Council and, as appropriate, make recommendations relating to items thereon;
 - (b) prepare draft rules of procedure of the Assembly and of the Council;
 - (c) make recommendations concerning the budget for the first financial period of the Authority;
 - (d) make recommendations concerning the relationship between the Authority and the United Nations and other international organizations;
 - (e) make recommendations concerning the Secretariat of the Authority in accordance with the relevant provisions of the Convention;
 - (f) undertake studies, as necessary, concerning the establishment of the headquarters of the Authority, and make recommendations relating thereto;
 - (g) prepare draft rules, regulations and procedures, as necessary, to enable the Authority to commence its functions, including draft regulations concerning the financial management and the internal administration of the Authority;
 - (h) exercise the powers and functions assigned to it by resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment;
 - (i) undertake studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submit recommendations to the Authority thereon.

6. The Commission shall have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes as set forth in this resolution.

7. The Commission may establish such subsidiary bodies as are necessary for the exercise of its functions and shall determine their functions and rules of procedure. It may also make use, as appropriate, of outside sources of expertise in accordance with United Nations practice to facilitate the work of bodies so established.

8. The Commission shall establish a special commission for the Enterprise and entrust to it the functions referred to in paragraph 12 of resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment. The special commission shall take all measures necessary for the early entry into effective operation of the Enterprise.

9. The Commission shall establish a special commission on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area and entrust to it the functions referred to in paragraph 5(i).

10. The Commission shall prepare a report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical

arrangements for the establishment of the International Tribunal for the Law of the Sea.

11. The Commission shall prepare a final report on all matters within its mandate, except as provided in paragraph 10, for the presentation to the Assembly at its first session. Any action which may be taken on the basis of the report must be in conformity with the provisions of the Convention concerning the powers and functions entrusted to the respective organs of the Authority.

12. The Commission shall meet at the seat of the Authority if facilities are available; it shall meet as often as necessary for the expeditious exercise of its functions.

13. The Commission shall remain in existence until the conclusion of the first session of the Assembly, at which time its property and records shall be transferred to the Authority.

14. The expenses of the Commission shall be met from the regular budget of the United Nations, subject to the approval of the General Assembly of the United Nations.

15. The Secretary-General of the United Nations shall make available to the Commission such secretariat services as may be required.

16. The Secretary-General of the United Nations shall bring this resolution, in particular paragraphs 14 and 15, to the attention of the General Assembly for necessary action.

RESOLUTION II

GOVERNING PREPARATORY INVESTMENT IN PIONEER ACTIVITIES RELATING TO POLYMETALLIC NODULES

*The Third United Nations Conference on the Law of the Sea,
Having adopted the Convention on the Law of the Sea (the
"Convention"),*

Having established by resolution I the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (the "Commission") and directed it to prepare draft rules, regulations and procedures, as necessary to enable the Authority to commence its functions, as well as to make recommendations for the early entry into effective operation of the Enterprise,

Desirous of making provision for investments by States and other entities made in a manner compatible with the international regime set forth in Part XI of the Convention and the Annexes relating thereto, before the entry into force of the Convention,

Recognizing the need to ensure that the Enterprise will be provided with the funds, technology and expertise necessary to enable it to keep pace with the States and other entities referred to in the preceding paragraph with respect to activities in the Area,

Decides as follows:

1. For the purposes of this resolution:
 - (a) "pioneer investor" refers to:
 - (i) France, India, Japan and the Union of Soviet Socialist Republics, or a state enterprise of each of those States or one natural or juridical person which possesses the nationality of or is effectively controlled by each of those

States, or their nationals, provided that the State concerned signs the Convention and the State or state enterprise or natural or juridical person has expended, before 1 January 1983, an amount equivalent to at least \$US 30 million (United States dollars calculated in constant dollars relative to 1982) in pioneer activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in paragraph 3(a);

- (ii) four entities, whose components being natural or juridical persons ¹ possess the nationality of one or more of the following States, or are effectively controlled by one or more of them or their nationals: Belgium, Canada, the Federal Republic of Germany, Italy, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, provided that the certifying State or States sign the Convention and the entity concerned has expended, before 1 January 1983, the levels of expenditure for the purpose stated in subparagraph (i);
- (iii) any developing State which signs the Convention or any state enterprise or natural or juridical person which possesses the nationality of such State or is effectively controlled by it or its nationals, or any group of the foregoing, which, before 1 January 1985, has expended the levels of expenditure for the purpose stated in subparagraph (i);

The rights of the pioneer investor may devolve upon its successor in interest.

- (b) "pioneer activities" means undertakings, commitments of financial and other assets, investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of polymetallic nodules and to the determination of the technical and economic feasibility of exploitation. Pioneer activities include:
 - (i) any at-sea observation and evaluation activity which has as its objective the establishment and documentation of the nature, shape, concentration, location and grade of polymetallic nodules and of the environmental, technical and other appropriate factors which must be taken into account before exploitation;
 - (ii) the recovery from the Area of polymetallic nodules with a view to the designing, fabricating and testing of equipment which is intended to be used in the exploitation of polymetallic nodules;
- (c) "certifying State" means a State which signs the Convention, standing in the same relation to a pioneer investor as would a

¹ For their identity and composition see "Seabed mineral resource development: recent activities of the international Consortia" and addendum, published by the Department of International Economic and Social Affairs of the United Nations (ST/ESA/107 and Add.1).

sponsoring State pursuant to Annex III, article 4, of the Convention and which certifies the levels of expenditure specified in subparagraph (a);

- (d) "polymetallic nodules" means one of the resources of the Area consisting of any deposit or accretion of nodules, on or just below the surface of the deep seabed, which contain manganese, nickel, cobalt and copper;
- (e) "pioneer area" means an area allocated by the Commission to a pioneer investor for pioneer activities pursuant to this resolution. A pioneer area shall not exceed 150,000 square kilometres. The pioneer investor shall relinquish portions of the pioneer area to revert to the Area, in accordance with the following schedule:
 - (i) 20 per cent of the area allocated by the end of the third year from the date of the allocation;
 - (ii) an additional 10 per cent of the area allocated by the end of the fifth year from the date of the allocation;
 - (iii) an additional 20 per cent of the area allocated or such larger amount as would exceed the exploitation area decided upon by the Authority in its rules, regulations and procedures, after eight years from the date of the allocation of the area or the date of the award of a production authorization, whichever is earlier;
- (f) "Area", "Authority", "activities in the Area" and "resources" have the meanings assigned to those terms in the Convention.

2. As soon as the Commission begins to function, any State which has signed the Convention may apply to the Commission on its behalf or on behalf of any state enterprise or entity or natural or juridical person specified in paragraph 1(a) for registration as a pioneer investor. The Commission shall register the applicant as a pioneer investor if the application:

- (a) is accompanied, in the case of a State which has signed the Convention, by a statement certifying the level of expenditure made in accordance with paragraph 1(a), and, in all other cases, a certificate concerning such level of expenditure issued by a certifying State or States; and
 - (b) is in conformity with the other provisions of this resolution, including paragraph 5.
3. (a) Every application shall cover a total area which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The application shall indicate the coordinates of the area defining the total area and dividing it into two parts of equal estimated commercial value and shall contain all the data available to the applicant with respect to both parts of the area. Such data shall include, *inter alia*, information relating to mapping, testing, the density of polymetallic nodules and their metal content. In dealing with such data, the Commission and its staff shall act in accordance with the relevant provisions of the Convention and its Annexes concerning the confidentiality of data.
- (b) Within 45 days of receiving the data required by subparagraph (a), the Commission shall designate the part of the area which is to be reserved in accordance with the

Convention for the conduct of activities in the Area by the Authority through the Enterprise or in association with developing States. The other part of the area shall be allocated to the pioneer investor as a pioneer area.

4. No pioneer investor may be registered in respect of more than one pioneer area. In the case of a pioneer investor which is made up of two or more components, none of such components may apply to be registered as a pioneer investor in its own right or under paragraph 1(a)(iii).

5. (a) Any State which has signed the Convention and which is a prospective certifying State shall ensure, before making applications to the Commission under paragraph 2, that areas in respect of which applications are made do not overlap one another or areas previously allocated as pioneer areas. The States concerned shall keep the Commission currently and fully informed of any efforts to resolve conflicts with respect to overlapping claims and of the results thereof.
- (b) Certifying States shall ensure, before the entry into force of the Convention, that pioneer activities are conducted in a manner compatible with it.
- (c) The prospective certifying States, including all potential claimants, shall resolve their conflicts as required under subparagraph (a) by negotiations within a reasonable period. If such conflicts have not been resolved by 1 March 1983, the prospective certifying States shall arrange for the submission of all such claims to binding arbitration in accordance with UNCITRAL Arbitration Rules to commence not later than 1 May 1983 and to be completed by 1 December 1984. If one of the States concerned does not wish to participate in the arbitration, it shall arrange for a juridical person of its nationality to represent it in the arbitration. The arbitral tribunal may, for good cause, extend the deadline for the making of the award for one or more 30-day periods.
- (d) In determining the issue as to which applicant involved in a conflict shall be awarded all or part of each area in conflict, the arbitral tribunal shall find a solution which is fair and equitable, having regard, with respect to each applicant involved in the conflict, to the following factors:
- (i) the deposit of the list of relevant coordinates with the prospective certifying State or States not later than the date of adoption of the Final Act or 1 January 1983, whichever is earlier;
 - (ii) the continuity and extent of past activities relevant to each area in conflict and to the application area of which it is a part;
 - (iii) the date on which each pioneer investor concerned or predecessor in interest or component organization thereof commenced activities at sea in the application area;
 - (iv) the financial cost of activities measured in constant United States dollars relevant to each area in conflict and to the application area of which it is a part; and
 - (v) the time when those activities were carried out and the quality of activities.

6. A pioneer investor registered pursuant to this resolution shall, from the date of registration, have the exclusive right to carry out pioneer activities in the pioneer area allocated to it.

7. (a) Every applicant for registration as a pioneer investor shall pay to the Commission a fee of \$US 250,000. When the pioneer investor applies to the Authority for a plan of work for exploration and exploitation the fee referred to in Annex III, article 13, paragraph 2, of the Convention shall be \$US 250,000.
 - (b) Every registered pioneer investor shall pay an annual fixed fee of \$US 1 million commencing from the date of the allocation of the pioneer area. The payments shall be made by the pioneer investor to the Authority upon the approval of its plan of work for exploration and exploitation. The financial arrangements undertaken pursuant to such plan of work shall be adjusted to take account of the payments made pursuant to this paragraph.
 - (c) Every registered pioneer investor shall agree to incur periodic expenditures, with respect to the pioneer area allocated to it, until approval of its plan of work pursuant to paragraph 8, of an amount to be determined by the Commission. The amount should be reasonably related to the size of the pioneer area and the expenditures which would be expected of a *bona fide* operator who intends to bring that area into commercial production within a reasonable time.
8. (a) Within six months of the entry into force of the Convention and certification by the Commission in accordance with paragraph 11, of compliance with this resolution, the pioneer investor so registered shall apply to the Authority for approval of a plan of work for exploration and exploitation, in accordance with the Convention. The plan of work in respect of such application shall comply with and be governed by the relevant provisions of the Convention and the rules, regulations and procedures of the Authority, including those on the operational requirements, the financial requirements and the undertakings concerning the transfer of technology. Accordingly, the Authority shall approve such application.
 - (b) When an application for approval of a plan of work is submitted by an entity other than a State, pursuant to subparagraph (a), the certifying State or States shall be deemed to be the sponsoring State for the purposes of Annex III, article 4, of the Convention, and shall thereupon assume such obligations.
 - (c) No plan of work for exploration and exploitation shall be approved unless the certifying State is a Party to the Convention. In the case of the entities referred to in paragraph 1(a)(ii), the plan of work for exploration and exploitation shall not be approved unless all the States whose natural or juridical persons comprise those entities are Parties to the Convention. If any such State fails to ratify the Convention within six months after it has received a notification from the Authority that an application by it, or sponsored by it, is pending, its status as a pioneer investor or certifying State, as the case may be, shall terminate, unless the Council, by a majority of three fourths of its members present

and voting, decides to postpone the terminal date for a period not exceeding six months.

9. (a) In the allocation of production authorizations, in accordance with article 151 and Annex III, article 7, of the Convention, the pioneer investors who have obtained approval of plans of work for exploration and exploitation shall have priority over all applicants other than the Enterprise which shall be entitled to production authorizations for two mine sites including that referred to in article 151, paragraph 5, of the Convention. After each of the pioneer investors has obtained production authorization for its first mine site, the priority for the Enterprise contained in Annex III, article 7, paragraph 6, of the Convention shall apply.
- (b) Production authorizations shall be issued to each pioneer investor within 30 days of the date on which that pioneer investor notifies the Authority that it will commence commercial production within five years. If a pioneer investor is unable to begin production within the period of five years for reasons beyond its control, it shall apply to the Legal and Technical Commission for an extension of time. That Commission shall grant the extension of time, for a period not exceeding five years and not subject to further extension, if it is satisfied that the pioneer investor cannot begin on an economically viable basis at the time originally planned. Nothing in this subparagraph shall prevent the Enterprise or any other pioneer applicant, who has notified the Authority that it will commence commercial production within five years, from being given a priority over any applicant who has obtained an extension of time under this subparagraph.
- (c) If the Authority, upon being given notice, pursuant to subparagraph (b), determines that the commencement of commercial production within five years would exceed the production ceiling in article 151, paragraphs 2 to 7, of the Convention, the applicant shall hold a priority over any other applicant for the award of the next production authorization allowed by the production ceiling.
- (d) If two or more pioneer investors apply for production authorizations to begin commercial production at the same time and article 151, paragraphs 2 to 7, of the Convention, would not permit all such production to commence simultaneously, the Authority shall notify the pioneer investors concerned. Within three months of such notification, they shall decide whether and, if so, to what extent they wish to apportion the allowable tonnage among themselves.
- (e) If, pursuant to subparagraph (d), the pioneer investors concerned decide not to apportion the available production among themselves they shall agree on an order of priority for production authorizations and all subsequent applications for production authorizations will be granted after those referred to in this subparagraph have been approved.
- (f) If, pursuant to subparagraph (d), the pioneer investors concerned decide to apportion the available production among themselves, the Authority shall award each of them a

production authorization for such lesser quantity as they have agreed. In each case the stated production requirements of the applicant will be approved and their full production will be allowed as soon as the production ceiling admits of additional capacity sufficient for the applicants involved in the competition. All subsequent applications for production authorizations will only be granted after the requirements of this subparagraph have been met and the applicant is no longer subject to the reduction of production provided for in this subparagraph.

- (g) If the parties fail to reach agreement within the stated time period, the matter shall be decided immediately by the means provided for in paragraph 5(c) in accordance with the criteria set forth in Annex III, article 7, paragraphs 3 and 5, of the Convention.
10. (a) Any rights acquired by entities or natural or juridical persons which possess the nationality of or are effectively controlled by a State or States whose status as certifying State has been terminated, shall lapse unless the pioneer investor changes its nationality and sponsorship within six months of the date of such termination, as provided for in subparagraph (b).
- (b) A pioneer investor may change its nationality and sponsorship from that existing at the time of its registration as a pioneer investor to that of any State Party to the Convention which has effective control over the pioneer investor in terms of paragraph 1(a).
- (c) Changes of nationality and sponsorship pursuant to this paragraph shall not affect any right or priority conferred on a pioneer investor pursuant to paragraphs 6 and 8.
11. The Commission shall:
- (a) provide each pioneer investor with the certificate of compliance with the provisions of this resolution referred to in paragraph 8; and
 - (b) include in its final report required by paragraph 11 of resolution I of the Conference details of all registrations of pioneer investors and allocations of pioneer areas pursuant to this resolution.
12. In order to ensure that the Enterprise is able to carry out activities in the Area in such a manner as to keep pace with States and other entities:
- (a) every registered pioneer investor shall:
 - (i) carry out exploration, at the request of the Commission, in the area reserved, pursuant to paragraph 3 in connection with its application, for activities in the Area by the Authority through the Enterprise or in association with developing States, on the basis that the costs so incurred plus interest thereon at the rate of 10 per cent per annum shall be reimbursed;
 - (ii) provide training at all levels for personnel designated by the Commission;
 - (iii) undertake before the entry into force of the Convention, to perform the obligations prescribed in the Convention relating to transfer of technology;
 - (b) every certifying State shall:

- (i) ensure that the necessary funds are made available to the Enterprise in a timely manner in accordance with the Convention, upon its entry into force; and
- (ii) report periodically to the Commission on the activities carried out by it, by its entities or natural or juridical persons.

13. The Authority and its organs shall recognize and honour the rights and obligations arising from this resolution and the decisions of the Commission taken pursuant to it.

14. Without prejudice to paragraph 13, this resolution shall have effect until the entry into force of the Convention.

15. Nothing in this resolution shall derogate from Annex III, article 6, paragraph 3(c), of the Convention.

RESOLUTION III

*The Third United Nations Conference on the Law of the Sea,
Having regard to the Convention on the Law of the Sea,
Bearing in mind the Charter of the United Nations, in particular
Article 73,*

1. *Declares* that:

- (a) In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development.
- (b) Where a dispute exists between States over the sovereignty of a territory to which this resolution applies, in respect of which the United Nations has recommended specific means of settlement, there shall be consultations between the parties to that dispute regarding the exercise of the rights referred to in subparagraph (a). In such consultations the interests of the people of the territory concerned shall be a fundamental consideration. Any exercise of those rights shall take into account the relevant resolutions of the United Nations and shall be without prejudice to the position of any party to the dispute. The States concerned shall make every effort to enter into provisional arrangements of a practical nature and shall not jeopardize or hamper the reaching of a final settlement of the dispute.

2. *Requests* the Secretary-General of the United Nations to bring this resolution to the attention of all Members of the United Nations and the other participants in the Conference, as well as the principal organs of the United Nations, and to request their compliance with it.

RESOLUTION IV

*The Third United Nations Conference on the Law of the Sea,
Bearing in mind that national liberation movements have been invited to
participate in the Conference as observers in accordance with rule 62 of its
rules of procedure,*

Decides that the national liberation movements, which have been participating in the Third United Nations Conference on the Law of the Sea, shall be entitled to sign the Final Act of the Conference, in their capacity as observers.

ANNEX II

STATEMENT OF UNDERSTANDING CONCERNING A SPECIFIC METHOD TO BE USED IN ESTABLISHING THE OUTER EDGE OF THE CONTINENTAL MARGIN

The Third United Nations Conference on the Law of the Sea,
Considering the special characteristics of a State's continental margin where: (1) the average distance at which the 200 metre isobath occurs is not more than 20 nautical miles; (2) the greater proportion of the sedimentary rock of the continental margin lies beneath the rise; and

Taking into account the inequity that would result to that State from the application to its continental margin of article 76 of the Convention, in that, the mathematical average of the thickness of sedimentary rock along a line established at the maximum distance permissible in accordance with the provisions of paragraph 4(a)(i) and (ii) of that article as representing the entire outer edge of the continental margin would not be less than 3.5 kilometres; and that more than half of the margin would be excluded thereby;

Recognizes that such State may, notwithstanding the provisions of article 76, establish the outer edge of its continental margin by straight lines not exceeding 60 nautical miles in length connecting fixed points, defined by latitude and longitude, at each of which the thickness of sedimentary rock is not less than 1 kilometre,

Where a State establishes the outer edge of its continental margin by applying the method set forth in the preceding paragraph of this statement, this method may also be utilized by a neighbouring State for delineating the outer edge of its continental margin on a common geological feature, where its outer edge would lie on such feature on a line established at the maximum distance permissible in accordance with article 76, paragraph 4(a)(i) and (ii), along which the mathematical average of the thickness of sedimentary rock is not less than 3.5 kilometres,

The Conference requests the Commission on the Limits of the Continental Shelf set up pursuant to Annex II of the Convention, to be governed by the terms of this Statement when making its recommendations on matters related to the establishment of the outer edge of the continental margins of these States in the southern part of the Bay of Bengal.

ANNEX VI

**RESOLUTION ON DEVELOPMENT OF
NATIONAL MARINE SCIENCE, TECHNOLOGY
AND OCEAN SERVICE INFRASTRUCTURES**

The Third United Nations Conference on the Law of the Sea,

Recognizing that the Convention on the Law of the Sea is intended to establish a new regime for the seas and oceans which will contribute to the realization of a just and equitable international economic order through making provision for the peaceful use of ocean space, the equitable and efficient management and utilization of its resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the new regime must take into account, in particular, the special needs and interests of the developing countries, whether coastal, land-locked, or geographically disadvantaged,

Aware of the rapid advances being made in the field of marine science and technology, and the need for the developing countries, whether coastal, land-locked, or geographically disadvantaged, to share in these achievements if the aforementioned goals are to be met,

Convinced that, unless urgent measures are taken, the marine scientific and technological gap between the developed and the developing countries will widen further and thus endanger the very foundations of the new regime,

Believing that optimum utilization of the new opportunities for social and economic development offered by the new regime will be facilitated through action at the national and international level aimed at strengthening national capabilities in marine science, technology and ocean services, particularly in the developing countries, with a view to ensuring the rapid absorption and efficient application of technology and scientific knowledge available to them,

Considering that national and regional marine scientific and technological centres would be the principal institutions through which States and, in particular, the developing countries, foster and conduct marine scientific research, and receive and disseminate marine technology,

Recognizing the special role of the competent international organizations envisaged by the Convention on the Law of the Sea, especially in relation to the establishment and development of national and regional marine scientific and technological centres,

Noting that present efforts undertaken within the United Nations system in training, education and assistance in the field of marine science and technology and ocean services are far below current requirements and would be particularly inadequate to meet the demands generated through operation of the Convention on the Law of the Sea,

Welcoming recent initiatives within international organizations to promote and coordinate their major international assistance programmes aimed at strengthening marine science infrastructures in developing countries,

1. *Calls upon* all Member States to determine appropriate priorities in their development plans for the strengthening of their marine science, technology and ocean services;

2. *Calls upon* the developing countries to establish programmes for the promotion of technical cooperation among themselves in the field of marine science, technology and ocean service development;

3. *Urges* the industrialized countries to assist the developing countries in the preparation and implementation of their marine science, technology and ocean service development programmes;

4. *Recommends* that the World Bank, the regional banks, the United Nations Development Programme, the United Nations Financing System for Science and Technology and other multilateral funding agencies augment and coordinate their operations for the provision of funds to developing countries for the preparation and implementation of major programmes of assistance in strengthening their marine science, technology and ocean services;

5. *Recommends* that all competent international organizations within the United Nations system expand programmes within their respective fields of competence for assistance to developing countries in the field of marine science, technology and ocean services and coordinate their efforts on a system-wide basis in the implementation of such programmes, paying particular attention to the special needs of the developing countries, whether coastal, land-locked or geographically disadvantaged;

6. *Requests* the Secretary-General of the United Nations to transmit this resolution to the General Assembly at its thirty-seventh session.

AGREEMENT TO PROMOTE COMPLIANCE
WITH INTERNATIONAL CONSERVATION AND MANAGEMENT
MEASURES BY FISHING VESSELS ON THE HIGH SEAS

ACCORD VISANT À FAVORISER LE RESPECT PAR LES
NAVIRES DE PÊCHE EN HAUTE MER DES MESURES
INTERNATIONALES DE CONSERVATION ET DE GESTION

ACUERDO PARA PROMOVER EL CUMPLIMIENTO DE LAS
MEDIDAS INTERNACIONALES DE CONSERVACION Y
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QUE PESCAN EN ALTA MAR

促进公海渔船遵守国际养护
及管理措施的协定



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pour
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et
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Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

联合国
粮食及
农业组织



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**FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE
ORGANIZACION DE LAS NACIONES UNIDAS PARA LA AGRICULTURA Y LA ALIMENTACION
Rome, Roma, 1995**

联合国粮食及农业组织

1995年 罗马

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FAO.

Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas.

Accord visant à favoriser le respect par les navires de pêche en haute mer des mesures internationales de conservation et de gestion.

Acuerdo para promover el cumplimiento de las medidas internacionales de conservación y ordenación por los buques pesqueros que pescan en alta mar.

Rome/Roma, FAO. 1995. pag. var. (incl. Arabic and Chinese texts).

作为文献，本文件应按如下书目引证：

粮农组织。

促进公海渔船遵守国际养护及管理措施的协定

罗马，粮农组织 1995年

Certified true copy of the English, French, Spanish, Arabic and Chinese versions of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved on 24 November 1993 by Resolution 15/93 of the Twenty-Seventh Session of the FAO Conference.

Copie conforme des versions anglaise, française, espagnole, arabe et chinoise de l'Accord visant à favoriser le respect par les navires de pêche en haute mer des mesures internationales de conservation et de gestion et de gestion, approuvé le 24 novembre 1993, par la résolution 15/93 de la vingt-septième session de la Conférence de la FAO.

Copia certificada conforme de las versiones inglesa, francesa, española, árabe y china del Acuerdo para promover el cumplimiento de las medidas internacionales de conservación y ordenación por los buques pesqueros que pescan en alta mar, aprobado por la Resolución 15/93 de 24 de noviembre de 1993 del 27º período de sesiones de la Conferencia de la FAO.

粮农组织大会第二十七届会议1993年11月24日以第15/93号决议批准的
《促进公海渔船遵守国际养护及管理措施的协定》
的英文、法文、西班牙文、阿拉伯文和中文的核定原本。

**AGREEMENT TO PROMOTE COMPLIANCE WITH INTERNATIONAL
CONSERVATION AND MANAGEMENT MEASURES BY
FISHING VESSELS ON THE HIGH SEAS**

PREAMBLE

The Parties to this Agreement.

Recognizing that all States have the right for their nationals to engage in fishing on the high seas, subject to the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea,

Further recognizing that, under international law as reflected in the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas,

Acknowledging the right and interest of all States to develop their fishing sectors in accordance with their national policies, and the need to promote cooperation with developing countries to enhance their capabilities to fulfil their obligations under this Agreement,

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas,

Further recalling that the Declaration of Cancun, adopted by the International Conference on Responsible Fishing, also calls on States to take action in this respect,

Bearing in mind that under Agenda 21, States commit themselves to the conservation and sustainable use of marine living resources on the high seas,

Calling upon States which do not participate in global, regional or subregional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations or with parties to such organizations or arrangements with a view to achieving compliance with international conservation and management measures,

Conscious of the duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag, including fishing vessels and vessels engaged in the transshipment of fish,

Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfil their responsibilities with respect to fishing

vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures,

Realizing that the objective of this Agreement can be achieved through specifying flag States' responsibility in respect of fishing vessels entitled to fly their flags and operating on the high seas, including the authorization by the flag State of such operations, as well as through strengthened international cooperation and increased transparency through the exchange of information on high seas fishing,

Noting that this Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancun,

Desiring to conclude an international agreement within the framework of the Food and Agriculture Organization of the United Nations, hereinafter referred to as FAO, under Article XIV of the FAO Constitution,

Have agreed as follows:

Article I

DEFINITIONS

For the purposes of this Agreement:

- (a) "fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in such fishing operations;
- (b) "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea. Such measures may be adopted either by global, regional or subregional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements;
- (c) "length" means
 - (i) for any fishing vessel built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
 - (ii) for any fishing vessel built before 18 July 1982, registered length as entered on the national register or other record of vessels;

- (d) "record of fishing vessels" means a record of fishing vessels in which are recorded pertinent details of the fishing vessel. It may constitute a separate record for fishing vessels or form part of a general record of vessels;
- (e) "regional economic integration organization" means a regional economic integration organization to which its Member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its Member States in respect of those matters;
- (f) "vessels entitled to fly its flag" and "vessels entitled to fly the flag of a State", includes vessels entitled to fly the flag of a Member State of a regional economic integration organization.

Article II

APPLICATION

1. Subject to the following paragraphs of this Article, this Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.
2. A Party may exempt fishing vessels of less than 24 metres in length entitled to fly its flag from the application of this Agreement unless the Party determines that such an exemption would undermine the object and purpose of this Agreement, provided that such exemptions:
 - (a) shall not be granted in respect of fishing vessels operating in fishing regions referred to in paragraph 3 below, other than fishing vessels that are entitled to fly the flag of a coastal State of that fishing region; and
 - (b) shall not apply to the obligations undertaken by a Party under paragraph 1 of Article III, or paragraph 7 of Article VI of this Agreement.
3. Without prejudice to the provisions of paragraph 2 above, in any fishing region where bordering coastal States have not yet declared exclusive economic zones, or equivalent zones of national jurisdiction over fisheries, such coastal States as are Parties to this Agreement may agree, either directly or through appropriate regional fisheries organizations, to establish a minimum length of fishing vessels below which this Agreement shall not apply in respect of fishing vessels flying the flag of any such coastal State and operating exclusively in such fishing region.

Article III

FLAG STATE RESPONSIBILITY

1. (a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that

undermines the effectiveness of international conservation and management measures.

- (b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled to fly its flag from the application of other provisions of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

3. No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.

4. Where a fishing vessel that has been authorized to be used for fishing on the high seas by a Party ceases to be entitled to fly the flag of that Party, the authorization to fish on the high seas shall be deemed to have been cancelled.

5. (a) No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless it is satisfied that

- (i) any period of suspension by another Party of an authorization for such fishing vessel to be used for fishing on the high seas has expired; and
- (ii) no authorization for such fishing vessel to be used for fishing on the high seas has been withdrawn by another Party within the last three years.

(b) The provisions of subparagraph (a) above shall also apply in respect of fishing vessels previously registered in the territory of a State which is not a Party to this Agreement, provided that sufficient information is available to the Party concerned on the circumstances in which the authorization to fish was suspended or withdrawn.

(c) The provisions of subparagraphs (a) and (b) shall not apply where the ownership of the fishing vessel has subsequently changed, and the new owner has provided sufficient evidence demonstrating that the previous

owner or operator has no further legal, beneficial or financial interest in, or control of, the fishing vessel.

- (d) Notwithstanding the provisions of subparagraphs (a) and (b) above, a Party may authorize a fishing vessel, to which those subparagraphs would otherwise apply, to be used for fishing on the high seas, where the Party concerned, after having taken into account all relevant facts, including the circumstances in which the fishing authorization has been withdrawn by the other Party or State, has determined that to grant an authorization to use the vessel for fishing on the high seas would not undermine the object and purpose of this Agreement.

6. Each Party shall ensure that all fishing vessels entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.

7. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide it with such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement, including in particular information pertaining to the area of its fishing operations and to its catches and landings.

8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.

Article IV

RECORDS OF FISHING VESSELS

Each Party shall, for the purposes of this Agreement, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas, and shall take such measures as may be necessary to ensure that all such fishing vessels are entered in that record.

Article V**INTERNATIONAL COOPERATION**

1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfil its obligations under Article III.
2. When a fishing vessel is voluntarily in the port of a Party other than its flag State, that Party, where it has reasonable grounds for believing that the fishing vessel has been used for an activity that undermines the effectiveness of international conservation and management measures, shall promptly notify the flag State accordingly. Parties may make arrangements regarding the undertaking by port States of such investigatory measures as may be considered necessary to establish whether the fishing vessel has indeed been used contrary to the provisions of this Agreement.
3. The Parties shall, when and as appropriate, enter into cooperative agreements or arrangements of mutual assistance on a global, regional, subregional or bilateral basis so as to promote the achievement of the objectives of this Agreement.

Article VI**EXCHANGE OF INFORMATION**

1. Each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the record required to be maintained under Article IV:
 - (a) name of fishing vessel, registration number, previous names (if known), and port of registry;
 - (b) previous flag (if any);
 - (c) International Radio Call Sign (if any);
 - (d) name and address of owner or owners;
 - (e) where and when built;
 - (f) type of vessel;
 - (g) length.

2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

- (a) name and address of operator (manager) or operators (managers) (if any);
- (b) type of fishing method or methods;
- (c) moulded depth;
- (d) beam;
- (e) gross register tonnage;
- (f) power of main engine or engines.

3. Each Party shall promptly notify to FAO any modifications to the information listed in paragraphs 1 and 2 of this Article.

4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information on request individually to any global, regional or subregional fisheries organization.

5. Each Party shall also promptly inform FAO of -

- (a) any additions to the record;
- (b) any deletions from the record by reason of -
 - (i) the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;
 - (ii) the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 8 of Article III;
 - (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 reason.

6. Where information is given to FAO under paragraph 5(b) above, the Party concerned shall specify which of the reasons listed in that paragraph is applicable.

7. Each Party shall inform FAO of
 - (a) any exemption it has granted under paragraph 2 of Article II, the number and type of fishing vessel involved and the geographical areas in which such fishing vessels operate; and
 - (b) any agreement reached under paragraph 3 of Article II.
8.
 - (a) Each Party shall report promptly to FAO all relevant information regarding any activities of fishing vessels flying its flag that undermine the effectiveness of international conservation and management measures, including the identity of the fishing vessel or vessels involved and measures imposed by the Party in respect of such activities. Reports on measures imposed by a Party may be subject to such limitations as may be required by national legislation with respect to confidentiality, including, in particular, confidentiality regarding measures that are not yet final.
 - (b) Each Party, where it has reasonable grounds to believe that a fishing vessel not entitled to fly its flag has engaged in any activity that undermines the effectiveness of international conservation and management measures, shall draw this to the attention of the flag State concerned and may, as appropriate, draw it to the attention of FAO. It shall provide the flag State with full supporting evidence and may provide FAO with a summary of such evidence. FAO shall not circulate such information until such time as the flag State has had an opportunity to comment on the allegation and evidence submitted, or to object as the case may be.
9. Each Party shall inform FAO of any cases where the Party, pursuant to paragraph 5(d) of Article III, has granted an authorization notwithstanding the provisions of paragraph 5(a) or 5(b) of Article III. The information shall include pertinent data permitting the identification of the fishing vessel and the owner or operator and, as appropriate, any other information relevant to the Party's decision.
10. FAO shall circulate promptly the information provided under paragraphs 5, 6, 7, 8 and 9 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information promptly on request individually to any global, regional or subregional fisheries organization.
11. The Parties shall exchange information relating to the implementation of this Agreement, including through FAO and other appropriate global, regional and subregional fisheries organizations.

Article VII**COOPERATION WITH DEVELOPING COUNTRIES**

The Parties shall cooperate, at a global, regional, subregional or bilateral level, and, as appropriate, with the support of FAO and other international or regional organizations, to provide assistance, including technical assistance, to Parties that are developing countries in order to assist them in fulfilling their obligations under this Agreement.

Article VIII**NON-PARTIES**

1. The Parties shall encourage any State not party to this Agreement to accept this Agreement and shall encourage any non-Party to adopt laws and regulations consistent with the provisions of this Agreement.
2. The Parties shall cooperate in a manner consistent with this Agreement and with international law to the end that fishing vessels entitled to fly the flags of non-Parties do not engage in activities that undermine the effectiveness of international conservation and management measures.
3. The Parties shall exchange information amongst themselves, either directly or through FAO, with respect to activities of fishing vessels flying the flags of non-Parties that undermine the effectiveness of international conservation and management measures.

Article IX**SETTLEMENT OF DISPUTES**

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.
2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea upon entry into force of the 1982 United Nations Convention on the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching

settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

Article X

ACCEPTANCE

1. This Agreement shall be open to acceptance by any Member or Associate Member of FAO, and to any non-member State that is a Member of the United Nations, or of any of the specialized agencies of the United Nations or of the International Atomic Energy Agency.
2. Acceptance of this Agreement shall be effected by the deposit of an instrument of acceptance with the Director-General of FAO, hereinafter referred to as the Director-General.
3. The Director-General shall inform all Parties, all Members and Associate Members of FAO and the Secretary-General of the United Nations of all instruments of acceptance received.
4. When a regional economic integration organization becomes a Party to this Agreement, such regional economic integration organization shall, in accordance with the provisions of Article II.7 of the FAO Constitution, as appropriate, notify such modifications or clarifications to its declaration of competence submitted under Article II.5 of the FAO Constitution as may be necessary in light of its acceptance of this Agreement. Any Party to this Agreement may, at any time, request a regional economic integration organization that is a Party to this Agreement to provide information as to which, as between the regional economic integration organization and its Member States, is responsible for the implementation of any particular matter covered by this Agreement. The regional economic integration organization shall provide this information within a reasonable time.

Article XI

ENTRY INTO FORCE

1. This Agreement shall enter into force as from the date of receipt by the Director-General of the twenty-fifth instrument of acceptance.
2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of such an organization.

Article XII**RESERVATIONS**

Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous acceptance by all Parties to this Agreement. The Director-General shall notify forthwith all Parties of any reservation. Parties not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such acceptance, the State or regional economic integration organization making the reservation shall not become a Party to this Agreement.

Article XIII**AMENDMENTS**

1. Any proposal by a Party for the amendment of this Agreement shall be communicated to the Director-General.
2. Any proposed amendment of this Agreement received by the Director-General from a Party shall be presented to a regular or special session of the Conference for approval and, if the amendment involves important technical changes or imposes additional obligations on the Parties, it shall be considered by an advisory committee of specialists convened by FAO prior to the Conference.
3. Notice of any proposed amendment of this Agreement shall be transmitted to the Parties by the Director-General not later than the time when the agenda of the session of the Conference at which the matter is to be considered is dispatched.
4. Any such proposed amendment of this Agreement shall require the approval of the Conference and shall come into force as from the thirtieth day after acceptance by two-thirds of the Parties. Amendments involving new obligations for Parties, however, shall come into force in respect of each Party only on acceptance by it and as from the thirtieth day after such acceptance. Any amendment shall be deemed to involve new obligations for Parties unless the Conference, in approving the amendment, decides otherwise by consensus.
5. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General, who shall inform all Parties of the receipt of acceptance and the entry into force of amendments.
6. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of such an organization.

Article XIV**WITHDRAWAL**

Any Party may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Parties and the Members and Associate Members of FAO of such withdrawal. Withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

Article XV**DUTIES OF THE DEPOSITARY**

The Director-General shall be the Depositary of this Agreement. The Depositary shall:

- (a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-member States as may become Party to this Agreement;
- (b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) inform each Member and Associate Member of FAO and any non-member States as may become Party to this Agreement of:
 - (i) instruments of acceptance deposited in accordance with Article X;
 - (ii) the date of entry into force of this Agreement in accordance with Article XI;
 - (iii) proposals for and the entry into force of amendments to this Agreement in accordance with Article XIII;
 - (iv) withdrawals from this Agreement pursuant to Article XIV.

Article XVI**AUTHENTIC TEXTS**

The Arabic, Chinese, English, French, and Spanish texts of this Agreement are equally authentic.

**ACCORD VISANT A FAVORISER LE RESPECT PAR LES NAVIRES
DE PECHE EN HAUTE MER DES MESURES INTERNATIONALES
DE CONSERVATION ET DE GESTION**

PREAMBULE

Les Parties au présent accord.

Reconnaissant que tous les Etats ont droit à ce que leurs ressortissants pêchent en haute mer, sous réserve des règles pertinentes du droit international telles que reflétées dans la Convention des Nations Unies sur le droit de la mer;

Reconnaissant en outre que, en vertu du droit international tel que reflété dans la Convention des Nations Unies sur le droit de la mer, tous les Etats ont l'obligation de prendre, à l'égard de leurs ressortissants, les mesures qui peuvent être nécessaires pour assurer la conservation des ressources biologiques de la haute mer, ou de coopérer avec d'autres Etats à la prise de telles mesures;

Prenant note du droit et de l'intérêt qu'ont tous les Etats de développer leurs activités de pêche suivant leur politique nationale, et de la nécessité de promouvoir la coopération avec les pays en développement en vue de les mettre en mesure de mieux remplir les obligations résultant du présent accord;

Rappelant que le Programme "Action 21", adopté par la Conférence des Nations Unies sur l'environnement et le développement, demande aux Etats de prendre des mesures compatibles avec le droit international pour dissuader efficacement leurs ressortissants de changer de pavillon pour se soustraire aux règles de conservation et de gestion applicables à la pêche en haute mer;

Rappelant en outre que la Déclaration de Cancún, adoptée par la Conférence internationale sur la pêche responsable, demande également aux Etats d'adopter des mesures à cet égard;

Ayant à l'esprit qu'aux termes d'Action 21 les Etats s'engagent à conserver et à utiliser de manière durable les ressources biologiques marines de la haute mer;

Invitant les Etats qui ne font pas partie d'organisations ou d'arrangements mondiaux, régionaux ou sous-régionaux concernant la pêche à adhérer ou, selon le cas, à conclure des ententes avec ces organisations ou avec les parties à ces organisations et arrangements afin de favoriser l'application des mesures internationales de conservation et de gestion;

Conscientes que chaque Etat a le devoir d'exercer efficacement sa juridiction et son contrôle sur les navires battant son pavillon, y compris les navires de pêche et les navires participant au transbordement du poisson;

Considérant que l'attribution ou le changement de pavillon des navires de pêche utilisé comme moyen de se soustraire au respect des mesures internationales de conservation et de gestion des ressources biologiques marines, et l'échec des Etats du pavillon à s'acquitter de leurs responsabilités en ce qui concerne les navires de pêche autorisés à battre leur pavillon, comptent parmi les facteurs qui compromettent gravement l'efficacité de ces mesures;

Réalisant que l'objectif du présent accord peut être atteint en précisant la responsabilité des Etats du pavillon en ce qui concerne les navires de pêche autorisés à battre leur pavillon et opérant en haute mer, y compris l'autorisation de ces opérations par l'Etat du pavillon, ainsi qu'en renforçant la coopération internationale et la transparence par l'échange d'informations sur la pêche en haute mer;

Notant que le présent accord fera partie intégrante du Code international de conduite pour une pêche responsable invoqué dans la Déclaration de Cancún;

Désirant conclure un accord international dans le cadre de l'Organisation des Nations Unies pour l'alimentation et l'agriculture, ci-après appelée la FAO, au titre de l'article XIV de l'Acte constitutif de la FAO;

Convient de ce qui suit:

Article I

DEFINITIONS

Aux fins du présent accord:

- (a) par "navire de pêche" on entend tout navire utilisé à des fins d'exploitation commerciale des ressources biologiques marines ou destiné à être ainsi utilisé; cela comprend les bateaux-mères ainsi que tout autre navire directement engagé dans de telles opérations de pêche;
- (b) par "mesures internationales de conservation et de gestion" on entend les mesures visant à conserver ou à gérer une ou plusieurs espèces de ressources biologiques marines, qui sont adoptées et appliquées conformément aux règles pertinentes du droit international telles que reflétées dans la Convention des Nations Unies sur le droit de la mer de 1982. Ces mesures peuvent être adoptées soit par des organisations mondiales, régionales ou sous-régionales s'occupant des pêches, sous réserve des droits et obligations de leurs membres, soit par accord international;
- (c) par "longueur" on entend
 - (i) pour tout navire de pêche construit après le 18 juillet 1982, la longueur égale à 96 pour cent de la longueur totale à la flottaison située à une distance du dessus de quille égale à 85 pour cent du creux minimal sur quille, ou à la distance du dessus de quille entre

la face avant de l'étrave et l'axe de la mèche du gouvernail à cette flottaison si cette valeur est supérieure. Dans le cas des navires conçus pour naviguer avec une quille inclinée, la flottaison à laquelle la longueur est mesurée doit être parallèle à la flottaison en charge prévue;

- (ii) pour tout navire de pêche construit avant le 18 juillet 1982, la longueur enregistrée telle qu'inscrite dans le registre national ou dans un autre fichier des navires;
- (d) par "fichier des navires de pêche" on entend un fichier dans lequel sont consignés les détails pertinents concernant le navire de pêche. Il peut soit constituer un fichier séparé pour les navires de pêche, soit faire partie d'un fichier général de tous les navires;
- (e) par "organisation d'intégration économique régionale" on entend une organisation d'intégration économique régionale à laquelle ses Etats Membres ont transféré des compétences sur les questions couvertes par le présent accord, y compris le pouvoir de prendre des décisions sur ces questions qui engagent ses Etats Membres;
- (f) "navires autorisés à battre pavillon" ou "navires autorisés à battre le pavillon d'un Etat" englobe les navires autorisés à battre le pavillon d'un Etat Membre d'une organisation d'intégration économique régionale.

Article II

APPLICATION

1. Sous réserve des paragraphes suivants du présent article, le présent accord s'applique à tous les navires de pêche qui sont utilisés ou destinés à être utilisés pour la pêche en haute mer.
2. Une Partie peut exempter de l'application du présent accord les navires de pêche autorisés à battre son pavillon d'une longueur inférieure à 24 mètres, à moins qu'elle ne détermine qu'une telle exemption compromettrait le but et l'objet du présent accord, et pour autant qu'une telle exemption:
 - (a) ne soit pas accordée à des navires de pêche, opérant dans les régions de pêche visées au paragraphe 3 ci-dessous, autres que ceux qui sont autorisés à battre pavillon d'un Etat côtier de cette région de pêche; et
 - (b) ne s'applique pas aux obligations auxquelles une Partie s'est soumise en vertu des dispositions de l'article III, paragraphe 1 ou de l'article VI, paragraphe 7 du présent accord.

3. Sans préjudice des dispositions du paragraphe 2 ci-dessus, dans toute région de pêche dans laquelle des zones économiques exclusives ou d'autres zones équivalentes de juridiction nationale sur les pêches n'ont pas encore été déclarées par les Etats côtiers limitrophes, les Etats côtiers parties au présent accord, directement ou par l'intermédiaire d'une organisation régionale des pêches appropriée, peuvent s'accorder pour établir une longueur minimale pour les navires de pêche en dessous de laquelle le présent accord ne s'applique pas aux navires de pêche battant pavillon d'un des Etats côtiers et opérant exclusivement dans cette région.

Article III

RESPONSABILITE DE L'ETAT DU PAVILLON

1.
 - (a) Chaque Partie prend les mesures qui peuvent être nécessaires pour s'assurer que les navires de pêche autorisés à battre son pavillon n'exercent aucune activité susceptible de compromettre l'efficacité de mesures internationales de conservation et de gestion.
 - (b) Au cas où une Partie a, conformément à l'article II, paragraphe 2, exempté de l'application d'autres dispositions du présent accord les navires de pêche autorisés à battre son pavillon d'une longueur inférieure à 24 mètres, ladite Partie prend néanmoins des mesures efficaces à l'égard de tout navire de pêche de ce genre dont l'activité compromet l'efficacité de mesures internationales de conservation et de gestion. Ces mesures doivent garantir que le navire de pêche cesse d'exercer une activité qui compromet l'efficacité des mesures internationales de conservation et de gestion.
2. En particulier, aucune Partie ne permet à un navire de pêche autorisé à battre son pavillon d'être utilisé pour la pêche en haute mer à moins qu'il n'ait été autorisé à être ainsi utilisé par la (ou les) autorité(s) compétente(s) de ladite Partie. Un navire de pêche ainsi autorisé doit pêcher en se conformant aux conditions de l'autorisation.
3. Aucune Partie ne permet à un navire de pêche autorisé à battre son pavillon d'être utilisé pour la pêche en haute mer à moins d'être convaincue, compte tenu des liens existant entre elle-même et le navire de pêche concerné, qu'elle est en mesure d'exercer effectivement ses responsabilités envers ce navire de pêche en vertu du présent accord.
4. Lorsqu'un navire de pêche qui a été autorisé par une Partie contractante à être utilisé pour la pêche en haute mer cesse d'être autorisé à battre pavillon de ladite Partie, l'autorisation de pêcher en haute mer est réputée avoir été retirée.
5.
 - (a) Aucune Partie n'autorise l'utilisation pour la pêche en haute mer d'un navire de pêche antérieurement immatriculé dans le territoire d'une autre Partie qui a compromis l'efficacité de mesures internationales de conservation et de gestion, à moins qu'elle ne soit convaincue que:

- (i) toute période de suspension par une autre Partie d'une autorisation à être utilisé pour la pêche en haute mer pour ce navire de pêche est venue à expiration; et
 - (ii) aucune autorisation de pêche en haute mer pour ce navire de pêche n'a été retirée par une autre Partie dans les trois dernières années.
- (b) Les dispositions de l'alinéa (a) ci-dessus s'appliquent aussi aux navires de pêche précédemment immatriculés dans le territoire d'un Etat qui n'est pas Partie au présent accord, pour autant que la Partie intéressée dispose d'informations suffisantes sur les circonstances dans lesquelles l'autorisation de pêche a été suspendue ou retirée.
- (c) Les dispositions des alinéas (a) et (b) ne s'appliquent pas lorsque la propriété du navire de pêche a changé depuis et que le nouveau propriétaire a fourni des preuves suffisantes quant au fait que le propriétaire ou l'exploitant précédent ne possède plus aucun intérêt juridique, financier ou autre dans ce navire de pêche, et n'exerce plus aucune autorité à son égard.
- (d) Nonobstant les dispositions des alinéas (a) et (b) ci-dessus, une Partie peut autoriser un navire de pêche auquel ces alinéas s'appliqueraient normalement à être utilisé pour la pêche en haute mer lorsque la Partie concernée, ayant pris en compte tous les faits pertinents, y compris les circonstances dans lesquelles l'autorisation de pêche a été retirée par l'autre Partie ou Etat, détermine que l'octroi d'une autorisation visant l'utilisation du navire pour la pêche en haute mer ne saurait compromettre ni le but ni l'objet du présent accord.
6. Chaque Partie s'assure que tous les navires de pêche qu'elle a inscrits au fichier tenu en vertu de l'article IV sont marqués de telle manière qu'ils puissent être aisément identifiés conformément aux normes généralement acceptées, telles que les Spécifications types du marquage et de l'identification des bateaux de pêche établies par la FAO.
7. Chaque Partie s'assure que tout navire de pêche autorisé à battre son pavillon lui fournit, concernant ses opérations, toutes informations qui peuvent être nécessaires pour permettre à la Partie de remplir les obligations qui lui incombent en vertu du présent accord, notamment l'information qui concerne la zone de ses opérations de pêche et celle relative à ses captures et débarquements.
8. Chaque Partie prend des mesures d'exécution à l'encontre des navires autorisés à battre son pavillon qui contreviendraient aux dispositions du présent accord, y compris, s'il y a lieu, des mesures visant à assurer que de telles contraventions constituent une infraction au regard de la législation nationale. Les sanctions applicables en cas de telles contraventions doivent être d'une gravité suffisante pour garantir efficacement le respect des dispositions du présent accord et priver les contrevenants des bénéfices de leurs activités illégales. Ces sanctions comprennent, pour des infractions graves, le refus, la suspension ou le retrait de l'autorisation de pêcher en haute mer.

Article IV**FICHIERS DE NAVIRES DE PECHE**

Chaque Partie doit, aux fins du présent accord, tenir un fichier des navires de pêche autorisés à battre son pavillon et autorisés à être utilisés pour la pêche en haute mer et prendre toutes les mesures éventuellement nécessaires pour s'assurer que tous ces navires de pêche soient inscrits dans ledit fichier.

Article V**COOPERATION INTERNATIONALE**

1. Les Parties coopèrent comme il convient à la mise en oeuvre du présent accord, notamment en procédant à des échanges d'informations, y compris des éléments de preuve, concernant les activités des navires de pêche en vue d'aider l'Etat du pavillon à identifier les navires battant son pavillon signalés comme ayant participé à des activités qui compromettent des mesures internationales de conservation et de gestion en vue de permettre à l'Etat du pavillon de remplir ses obligations en vertu de l'article III.

2. Lorsqu'un navire de pêche se trouve volontairement dans le port d'une Partie autre que l'Etat du pavillon, cette Partie, si elle dispose de motifs raisonnables de croire que ce navire de pêche a été utilisé pour une activité qui compromet l'efficacité des mesures internationales de conservation et de gestion, doit notifier sans tarder l'Etat du pavillon en conséquence. Les Parties peuvent prendre des arrangements concernant la conduite par les Etats du port des enquêtes qu'elles estiment nécessaires en vue d'établir si le navire de pêche a effectivement été utilisé contrairement aux dispositions du présent accord.

3. Les Parties concluront, lorsqu'il y a lieu, des accords de coopération ou des arrangements d'assistance mutuelle sur une base mondiale, régionale, sous-régionale ou bilatérale, de manière à promouvoir les objectifs du présent accord.

Article VI**ECHANGE D'INFORMATIONS**

1. Chaque Partie met à la disposition de la FAO, pour ce qui concerne chaque navire de pêche inscrit dans le fichier qu'elle doit tenir aux termes de l'article IV, les informations ci-après:

- (a) nom du navire de pêche, numéro d'immatriculation, noms précédents (s'ils sont connus) et port d'immatriculation;
- (b) pavillon précédent (le cas échéant);
- (c) indicatif international de signaux radio (le cas échéant);

- (d) nom et adresse du (ou des) propriétaire(s);
- (e) lieu et date de construction;
- (f) type de navire;
- (g) longueur.

2. Chaque Partie communique à la FAO, dans la mesure du possible, pour chaque navire de pêche inscrit dans le fichier qu'elle doit tenir aux termes de l'article IV, les renseignements supplémentaires ci-après:

- (a) nom et adresse du (ou des) exploitant(s) (le cas échéant);
- (b) type de la (ou des) méthode(s) de pêche;
- (c) creux de quille;
- (d) largeur;
- (e) tonnage de jauge brut;
- (f) puissance du moteur ou des moteurs principaux.

3. Chaque Partie notifie sans tarder à la FAO toutes modifications des informations répertoriées aux paragraphes 1 et 2 du présent article.

4. La FAO diffuse périodiquement les informations fournies au titre des paragraphes 1, 2 et 3 du présent article à toutes les Parties et individuellement, sur demande, à toute Partie. La FAO doit également, sur demande, communiquer de telles informations individuellement à toute organisation mondiale, régionale ou sous-régionale des pêches, sous réserve de toute restriction relative à la circulation de l'information imposée par la Partie concernée.

5. De plus, chaque Partie notifie sans tarder à la FAO:

- (a) tout ajout au fichier;
- (b) toute radiation du fichier en raison:
 - (i) de l'abandon volontaire ou du non-renouvellement de l'autorisation de pêche de la part du propriétaire ou exploitant du navire de pêche;
 - (ii) du retrait, aux termes de l'article III, paragraphe 8, de l'autorisation de pêche délivrée à ce navire de pêche;
 - (iii) du fait que le navire de pêche n'est plus autorisé à battre son pavillon;

- (iv) de la destruction, du déclassement ou de la perte du navire de pêche en question;
- (v) pour toute autre raison.

6. En donnant à la FAO toute information sur la base du paragraphe 5(b) ci-dessus, la Partie concernée doit spécifier laquelle des raisons énumérées ci-dessus est applicable.

7. Chaque Partie doit informer la FAO:

- (a) de toute exemption qu'elle a octroyée en vertu de l'article II, paragraphe 2, du nombre et du type de navires de pêche concernés et des zones géographiques où ces navires de pêche opèrent; et
- (b) de tout accord établi en vertu de l'article II, paragraphe 3.

8. (a) Chaque Partie communique sans tarder à la FAO tous les détails pertinents concernant toutes activités des navires de pêche autorisés à battre son pavillon qui compromettent l'efficacité de mesures internationales de conservation et de gestion, y compris l'identité du ou des navires de pêche impliqués et les sanctions imposées par la Partie eu égard à de telles activités. Les rapports sur les mesures imposées par la Partie peuvent être sujets aux limitations requises par la législation nationale relative au respect du caractère confidentiel, notamment de mesures non encore définitives.

- (b) Chaque Partie, lorsqu'elle a des motifs raisonnables de croire qu'un navire de pêche non autorisé à battre son pavillon se livre à une activité qui compromet l'efficacité de mesures internationales de conservation et de gestion, attire sur ce point l'attention de l'Etat du pavillon concerné et, lorsque cela se justifie, de la FAO. Il lui appartient de fournir à l'Etat du pavillon tous les éléments de preuve recueillis et d'en fournir éventuellement un résumé à la FAO. La FAO s'abstient de diffuser les informations fournies tant que l'Etat du pavillon n'a pas eu la possibilité de commenter les allégations et les éléments de preuves soumis, ou d'y faire objection, selon le cas.

9. Chaque Partie informe la FAO de tous les cas où, conformément à l'article III, paragraphe 5(d), elle a accordé une autorisation nonobstant les dispositions de l'article III, paragraphe 5(a) ou 5(b). Les informations fournies comprennent les données permettant l'identification du navire de pêche et du propriétaire ou de l'exploitant et, autant que de besoin, toute autre information concernant la décision prise par la Partie en cause.

10. La FAO communique sans tarder à toutes les Parties et individuellement, sur demande, à toute Partie les informations fournies aux termes des paragraphes 5, 6, 7, 8 et 9 du présent Article. La FAO doit également, sur demande, communiquer sans tarder de telles informations individuellement à toute organisation mondiale, régionale ou sous-régionale des pêches, sous réserve de toute restriction relative à la circulation de l'information imposée par la Partie concernée.

11. Les Parties échangent des informations concernant la mise en oeuvre du présent accord, notamment par l'intermédiaire de la FAO et d'autres organisations mondiales, régionales et sous-régionales des pêches appropriées.

Article VII

COOPERATION AVEC LES PAYS EN DEVELOPPEMENT

Les Parties coopèrent, à l'échelon mondial, régional, sous-régional ou bilatéral et, si besoin est, avec le soutien de la FAO et d'autres organisations internationales et régionales, pour prêter assistance, y compris une assistance technique, aux Parties qui sont des pays en développement afin de les aider à remplir leurs obligations en vertu du présent accord.

Article VIII

TIERS A L'ACCORD

1. Les Parties encouragent tout Etat qui n'est pas Partie au présent accord à l'accepter et encouragent les tiers au présent accord à adopter des lois et règlements en accord avec les dispositions du présent accord.

2. Les Parties coopèrent conformément au présent accord et au droit international, afin d'empêcher les navires de pêche autorisés à battre le pavillon de tiers au présent accord de prendre part à des activités qui compromettent l'efficacité de mesures internationales de conservation ou de gestion.

3. Les Parties échangent entre elles des informations soit directement, soit par le truchement de la FAO, relativement aux activités des navires de pêche battant le pavillon de tiers au présent accord qui compromettent l'efficacité de mesures internationales de conservation et de gestion.

Article IX

REGLEMENT DES DIFFERENDS

1. Toute Partie peut demander des consultations avec toute(s) autre(s) Partie (ou Parties) sur tout différend touchant l'interprétation ou l'application des dispositions du présent accord, afin d'arriver aussi rapidement que possible à une solution mutuellement satisfaisante.

2. Dans le cas où le différend n'est pas réglé dans un délai raisonnable au moyen de ces consultations, les Parties en question se consultent entre elles de manière que le différend puisse être réglé au plus vite par négociation, enquête, médiation, conciliation, arbitrage, règlement judiciaire ou autres moyens pacifiques de leur choix.

3. Tout différend de ce caractère non ainsi réglé est, avec le consentement dans chaque cas de toutes les Parties au différend, renvoyé pour règlement à la Cour internationale de justice, au Tribunal international du droit de la mer à l'entrée en vigueur de la Convention des Nations Unies sur le droit de la mer de 1982, ou soumis à arbitrage. S'il n'est pas possible de parvenir à un accord concernant le renvoi à la Cour internationale de justice, au Tribunal international du droit de la mer ou à l'arbitrage, les Parties au différend continuent à se consulter et à coopérer en vue de résoudre le différend conformément aux règles du droit international relatives à la conservation des ressources biologiques marines.

Article X

ADHESION

1. Le présent accord est ouvert à l'adhésion des Membres ou Membres associés de la FAO, ainsi que de tout Etat non membre qui est membre de l'Organisation des Nations Unies ou de l'une des institutions spécialisées des Nations Unies ou de l'Agence internationale de l'énergie atomique.
2. L'adhésion au présent accord se fait par le dépôt d'un instrument d'adhésion auprès du Directeur général de la FAO, ci-après appelé le Directeur général.
3. Le Directeur général informe toutes les Parties, tous les Membres et Membres associés de la FAO et le Secrétaire général des Nations Unies de tous les instruments d'adhésion reçus.
4. Lorsqu'une organisation d'intégration économique régionale devient Partie au présent accord, ladite organisation fait connaître, en tant que de besoin et conformément aux dispositions de l'article II.7 de l'Acte constitutif de la FAO, les modifications ou précisions à apporter en raison de son adhésion à cet accord à la déclaration de compétences qu'elle a soumise en vertu de l'article II.5 de l'Acte constitutif de la FAO. Toute Partie au présent accord peut à tout moment demander à une organisation d'intégration économique régionale de préciser qui, d'elle-même ou de ses Etats Membres, est responsable de l'application de tout aspect particulier du présent accord. L'organisation d'intégration économique régionale en question doit fournir cette information dans un délai raisonnable.

Article XI

ENTREE EN VIGUEUR

1. Le présent accord entre en vigueur à la date de réception par le Directeur général du vingt-cinquième instrument d'adhésion.
2. Aux fins du présent article, un instrument d'adhésion déposé par une organisation d'intégration économique régionale ne doit pas être compté comme s'ajoutant à ceux déposés par les Etats Membres de ladite organisation.

Article XII**RESERVES**

L'adhésion au présent accord peut être soumise à des réserves qui ne prennent effet qu'après avoir été acceptées unanimement par toutes les Parties. Le Directeur général notifie immédiatement les Parties de toute réserve. Les Parties qui n'ont pas répondu dans les trois mois suivant la date de notification sont supposées avoir accepté la réserve. A défaut de cette acceptation, l'Etat ou l'Organisation d'intégration économique régionale formulant la réserve ne devient pas Partie au présent accord.

Article XIII**AMENDEMENTS**

1. Toute proposition d'amendement au présent accord introduite par une Partie est communiquée au Directeur général.
2. Toute proposition d'amendement introduite par une Partie et reçue par le Directeur général est soumise pour approbation à la Conférence, réunie en session ordinaire ou extraordinaire. Si l'amendement implique d'importantes modifications d'ordre technique ou impose des obligations nouvelles aux Parties, il est étudié par un comité consultatif d'experts convoqué par la FAO avant la Conférence.
3. Toute proposition d'amendement est notifiée aux Parties par le Directeur général, au plus tard à la date de l'envoi de l'ordre du jour de la session de la Conférence où doit être examinée cette proposition.
4. Toute proposition d'amendement doit être adoptée par la Conférence et prend effet à compter du trentième jour qui suit son acceptation par les deux tiers des Parties. Toutefois, les amendements qui impliquent de nouvelles obligations pour les Parties ne prennent effet, vis-à-vis de chaque Partie, qu'après avoir été acceptés par elles et à compter du trentième jour suivant cette acceptation. Tout amendement est réputé impliquer de nouvelles obligations pour les Parties, à moins que la Conférence, en approuvant l'amendement, n'en décide autrement par consensus.
5. Les instruments d'acceptation des amendements qui impliquent de nouvelles obligations sont déposés auprès du Directeur général, qui informe toutes les Parties de la réception desdits instruments et de l'entrée en vigueur desdits amendements.
6. Aux fins du présent article, un instrument d'acceptation déposé par une organisation d'intégration économique régionale ne doit pas être compté comme s'ajoutant à ceux déposés par les Etats Membres de ladite organisation.

Article XIV

RETRAIT

Toute Partie peut, à l'expiration d'un délai de deux ans à compter de la date à laquelle le présent accord est entré en vigueur en ce qui concerne ladite Partie, se retirer du présent accord en notifiant ce retrait par écrit au Directeur général qui, à son tour, en informe aussitôt toutes les Parties et les Membres et membres associés de la FAO. Le retrait devient effectif à la fin de l'année civile suivant l'année pendant laquelle le Directeur général a reçu la notification.

Article XV

FONCTIONS DU DEPOSITAIRE

Le Directeur général est le dépositaire du présent accord. Le dépositaire:

- (a) envoie des copies certifiées conformes du présent accord à chaque Membre et membre associé de la FAO et aux Etats non membres susceptibles de devenir Partie au présent accord;
- (b) fait enregistrer le présent accord, dès son entrée en vigueur, auprès du Secrétariat de l'Organisation des Nations Unies, conformément à l'article 102 de la Charte des Nations Unies;
- (c) informe chacun des Membres et membres associés de la FAO et tous Etats non membres susceptibles de devenir Partie au présent accord:
 - (i) du dépôt d'instruments d'adhésion déposés conformément à l'article X;
 - (ii) de la date d'entrée en vigueur du présent accord conformément à l'article XI;
 - (iii) des propositions d'amendements et de leur entrée en vigueur conformément à l'article XIII;
 - (iv) des retraits du présent accord conformément à l'article XIV.

Article XVI

TEXTES AUTHENTIQUES

Les textes du présent accord en anglais, arabe, chinois, espagnol et français font également foi.

**ACUERDO PARA PROMOVER EL CUMPLIMIENTO DE LAS MEDIDAS
INTERNACIONALES DE CONSERVACION Y ORDENACION POR
LOS BUQUES PESQUEROS QUE PESCAN EN ALTA MAR**

PREAMBULO

Las Partes en el presente Acuerdo,

Reconociendo que todos los Estados tienen derecho a que sus nacionales se dediquen a la pesca en alta mar, con sujeción a las normas pertinentes del derecho internacional, tal como se reflejan en la Convención de las Naciones Unidas sobre el Derecho del Mar;

Reconociendo asimismo que, en virtud del derecho internacional, tal como se refleja en la Convención de las Naciones Unidas sobre el Derecho del Mar, todos los Estados tienen la obligación de adoptar, o de cooperar con otros Estados para adoptar, las medidas aplicables a sus respectivos nacionales que sean necesarias para la conservación de los recursos vivos de alta mar;

Reconociendo también el derecho de todos los Estados y su interés en desarrollar sus sectores pesqueros de conformidad con sus políticas nacionales, y la necesidad de promover la cooperación de los países en desarrollo para fortalecer su capacidad de cumplir las obligaciones dimanantes del presente Acuerdo;

Recordando que en el Programa 21, aprobado por la Conferencia de las Naciones Unidas sobre el Medio Ambiente y el Desarrollo, se pide a los Estados que tomen medidas eficaces, acordes con el Derecho Internacional, para evitar que sus nacionales cambien el pabellón de los buques como medio de eludir el cumplimiento de las normas de conservación y ordenación aplicables a las actividades de pesca en alta mar;

Recordando asimismo que la Declaración de Cancún, adoptada por la Conferencia Internacional de Pesca Responsable, solicita igualmente a los Estados a que tomen medidas al respecto;

Teniendo en cuenta que, con arreglo al Programa 21, los Estados se comprometen a la conservación y utilización sostenible de los recursos marinos vivos en alta mar;

Exhortando a los Estados que no son parte en organizaciones o acuerdos mundiales, regionales o subregionales de pesca a que se adhieran a ellos o, en su caso, lleguen a arreglos con dichas organizaciones o con los miembros de dichas organizaciones o acuerdos con el fin de lograr el cumplimiento de las medidas internacionales de conservación y ordenación;

Conscientes de la obligación que tiene cada Estado de ejercer eficazmente su jurisdicción y control sobre los buques que enarbolan su pabellón, inclusive los buques pesqueros y los dedicados al trasbordo de pescado;

Conscientes de que la práctica del abanderamiento o del cambio de pabellón de los buques pesqueros, como medio de eludir el cumplimiento de las medidas internacionales de conservación y ordenación de los recursos marinos vivos, y el incumplimiento por parte de los Estados del pabellón de sus responsabilidades con respecto a los buques pesqueros autorizados a enarbolar su pabellón figuran entre los factores que más gravemente debilitan la eficacia de dichas medidas;

Comprobando que el objetivo del presente Acuerdo puede lograrse estableciendo la responsabilidad de los Estados del pabellón con respecto a los buques pesqueros autorizados a enarbolar sus pabellones y que faenan en alta mar, incluyendo la autorización de dichas operaciones por el Estado del pabellón, así como fortaleciendo la cooperación internacional y aumentando la transparencia a través del intercambio de información sobre la pesca en alta mar;

Observando que el presente Acuerdo formará parte integrante del Código Internacional de Conducta para la Pesca Responsable solicitado en la Declaración de Cancún;

Expresando el deseo de concertar un acuerdo internacional en el marco de la Organización de las Naciones Unidas para la Agricultura y la Alimentación (a partir de aquí denominada "FAO"), en virtud del Artículo XIV de la Constitución de la FAO;

Han convenido en lo siguiente:

Artículo I

DEFINICIONES

A los efectos del presente Acuerdo:

- (a) por "buque pesquero" se entiende todo buque utilizado o que se tenga previsto utilizar para la explotación comercial de los recursos marinos vivos, incluyéndose los buques de apoyo y cualesquiera otros buques empleados directamente en tales operaciones de pesca;
- (b) por "medidas internacionales de conservación y ordenación" se entienden las medidas encaminadas a conservar u ordenar una o varias especies de recursos marinos vivos adoptadas y ejecutadas de conformidad con las normas aplicables de derecho internacional tal como se hallan reflejadas en la Convención de las Naciones Unidas sobre el Derecho del Mar de 1982. Tales medidas pueden ser adoptadas por organizaciones pesqueras mundiales, regionales o subregionales, sin perjuicio de los derechos y obligaciones de sus miembros, o mediante tratados u otros acuerdos internacionales;
- (c) por "eslora" se entiende:
 - (i) en el caso de los buques pesqueros construidos después del 18 de julio de 1982, el 96 por ciento de la eslora total en una

flotación situada a una altura sobre el canto superior de la quilla igual al 85 por ciento del puntal mínimo de trazado, o la distancia desde la cara de proa de la roda al eje de la mecha del timón en esta flotación, si este último valor es mayor. En los buques proyectados para navegar con asiento de quilla, la flotación en la que se ha de medir la eslora debe ser paralela a la flotación en carga prevista en el proyecto;

- (ii) en el caso de buques pesqueros construidos antes del 18 de julio de 1982, la eslora registrada tal como se halla indicada en el registro nacional o en otro registro de buques;
- (d) por "registro de buques pesqueros" se entiende un registro de los buques pesqueros en que figuren los detalles pertinentes del buque pesquero. Puede ser un registro independiente de los buques pesqueros o formar parte de un registro general de embarcaciones;
- (e) por "organización regional de integración económica" se entiende una organización regional de integración económica a la que sus Estados miembros hayan transferido la competencia en las materias contempladas en este Acuerdo, incluida la autoridad para tomar decisiones que vinculen a sus Estados miembros en relación con tales materias;
- (f) las expresiones "buques autorizados a enarbolar su pabellón" y "buques autorizados a enarbolar el pabellón de un Estado" incluyen los buques autorizados a enarbolar el pabellón de un Estado miembro de una organización regional de integración económica.

Artículo II

APLICACIÓN

1. Sin perjuicio de lo establecido en los párrafos siguientes de este Artículo, el presente Acuerdo se aplicará a todos los buques pesqueros que se utilizan o se tenga previsto utilizar para pescar en alta mar.

2. Cualquier Parte puede eximir a los buques pesqueros de menos de 24 metros de eslora autorizados a enarbolar su pabellón de la aplicación del presente Acuerdo, a no ser que la Parte constataste que dicha exención debilitaría el objetivo y finalidad del presente Acuerdo, siempre que tales exenciones:

- (a) no se otorguen a buques pesqueros que faenan en las regiones pesqueras indicadas en el párrafo 3 siguiente, a menos que se trate de buques pesqueros autorizados a enarbolar el pabellón de un estado ribereño de esa región pesquera; y

- (b) no se apliquen a las obligaciones asumidas por una Parte en virtud del párrafo 1 del Artículo III o del párrafo 7 del Artículo VI del presente Acuerdo.

3. Sin perjuicio de lo dispuesto en el párrafo 2 anterior, en cualquier región de pesca en la que los Estados ribereños aún no hayan declarado zonas económicas exclusivas o zonas equivalentes, de jurisdicción nacional de pesca, tales Estados ribereños en cuanto Partes en el presente Acuerdo podrán acordar, directamente o a través de las organizaciones pesqueras regionales apropiadas, que el presente Acuerdo no se aplique a los buques pesqueros de menos de una determinada eslora que enarboles el pabellón de tales Estados ribereños y que faenen exclusivamente en dicha región de pesca.

Artículo III

RESPONSABILIDAD DEL ESTADO DEL PABELLÓN

1.
 - (a) Cada una de las Partes tomará las medidas necesarias para asegurar que los buques pesqueros autorizados a enarbolar su pabellón no se dediquen a actividad alguna que debilite la eficacia de las medidas internacionales de conservación y ordenación.
 - (b) En caso que una Parte, de conformidad con el párrafo 2 del Artículo II, haya eximido de la aplicación de otras disposiciones del presente Acuerdo a los buques pesqueros de menos de 24 metros de eslora autorizados a enarbolar su pabellón, dicha Parte deberá adoptar, no obstante, medidas efectivas con respecto a cualquiera de dichos buques pesqueros cuya actividad debilite la eficacia de las medidas internacionales de conservación y ordenación. Estas medidas deberán ser tales que garanticen que el buque pesquero deje de dedicarse a actividades que debiliten la eficacia de las medidas internacionales de conservación y ordenación.
2. En particular, ninguna de las Partes permitirá que un buque pesquero autorizado a enarbolar su pabellón se utilice en la pesca en alta mar, a no ser que haya sido autorizado para ello por la autoridad o autoridades competentes de dicha Parte. El buque pesquero así autorizado pescará de conformidad con las condiciones establecidas en la autorización.
3. Ninguna de las Partes permitirá que un buque pesquero autorizado a enarbolar su pabellón sea utilizado para pescar en alta mar a no ser que la Parte considere que, teniendo en cuenta los vínculos existentes entre ella y el buque pesquero de que se trate, puede ejercer efectivamente sus responsabilidades en virtud del presente Acuerdo con respecto a dicho buque pesquero.
4. En los casos en que un buque pesquero que haya sido autorizado por una Parte para ser utilizado en la pesca en alta mar deje de estar autorizado a enarbolar el pabellón de dicha Parte, se considerará que ha sido cancelada la autorización a pescar en alta mar.
5.
 - (a) Ninguna Parte autorizará a ningún buque pesquero, registrado anteriormente en el territorio de otra Parte y que haya debilitado la eficacia de

las medidas internacionales de conservación y ordenación, para ser utilizado en la pesca en alta mar, a no ser que haya constatado que:

- (i) se ha cumplido el período de suspensión de la autorización, impuesto por otra Parte, para que dicho buque pesquero se utilice en la pesca en alta mar; y
 - (ii) ninguna Parte ha retirado autorización alguna para que dicho buque pesquero se utilice en la pesca en alta mar en los últimos tres años.
- (b) Las disposiciones del apartado (a) anterior se aplicarán también a los buques pesqueros anteriormente registrados en el territorio de un Estado que no sea Parte en el Presente Acuerdo, siempre que la Parte interesada disponga de información suficiente sobre las circunstancias en las que se suspendió o retiró la autorización para pescar.
- (c) Las disposiciones de los apartados (a) y (b) anteriores no se aplicarán en los casos en que haya cambiado posteriormente la propiedad del buque pesquero y el nuevo propietario haya presentado pruebas suficientes de que el propietario o armador anterior no tiene ya ninguna relación jurídica, económica o de beneficio con el buque pesquero, ni control alguno del mismo.
- (d) Sin perjuicio de lo dispuesto en los apartados (a) y (b) anteriores, una Parte puede autorizar que un buque pesquero, al que de lo contrario se aplicarían dichos apartados, se utilice para la pesca en alta mar en los casos en que la parte interesada, después de haber tenido en cuenta todos los hechos pertinentes, incluidas las circunstancias en que la autorización para pescar ha sido denegada o retirada por la otra Parte o Estado, haya determinado que la concesión de una autorización para utilizar el buque para pescar en alta mar no debilitará el objetivo y la finalidad del Presente Acuerdo.

6. Cada una de las partes asegurará que todos los buques pesqueros autorizados a enarbolar su pabellón y que hayan sido inscritos en el registro que se ha de llevar de conformidad con el Artículo IV, estén marcados de tal manera que puedan identificarse fácilmente, de conformidad con las normas generalmente aceptadas, tales como las Especificaciones Uniformes de la FAO para el Marcado e Identificación de las embarcaciones pesqueras.

7. Cada una de las Partes asegurará que el buque pesquero autorizado a enarbolar su pabellón le proporcione las informaciones sobre sus operaciones que puedan resultar necesarias para que la Parte pueda cumplir las obligaciones contraídas en virtud del presente Acuerdo, incluyendo, en particular, información relativa al área de sus operaciones de pesca y a sus capturas y desembarques.

8. Cada una de las Partes adoptará medidas de ejecución con respecto a los buques pesqueros autorizados a enarbolar su pabellón que contravengan lo dispuesto en el presente Acuerdo, llegando incluso a considerar, si fuera apropiado, la contravención de dichas

disposiciones como infracción en la legislación nacional. Las sanciones aplicables a tales contravenciones deberán ser lo bastante severas como para garantizar el cumplimiento efectivo de las disposiciones de este Acuerdo y privar a los infractores de los beneficios derivados de sus actividades ilegales. Dichas sanciones incluirán, en el caso de infracciones graves, la denegación, suspensión o retiro de la autorización para ser utilizado en la pesca en alta mar.

Artículo IV

REGISTROS DE LOS BUQUES PESQUEROS

Cada una de las Partes deberá, a los efectos del presente Acuerdo, mantener un registro de los buques pesqueros autorizados a enarbolar su pabellón y a ser utilizados en la pesca en alta mar, y adoptará las medidas necesarias para asegurar que dichos buques pesqueros estén incluidos en dicho registro.

Artículo V

COOPERACIÓN INTERNACIONAL

1. Las Partes deberán cooperar, según convenga, en la aplicación del presente Acuerdo, y deberán, en particular, intercambiar información, incluyendo los elementos de prueba relativos a las actividades de los buques pesqueros a fin de ayudar al Estado del pabellón a identificar aquellos buques pesqueros que, enarbolando su pabellón, hayan sido señalados por haber ejercido actividades que debiliten las medidas internacionales de conservación y ordenación, de modo que pueda cumplir sus obligaciones de conformidad con el Artículo III.

2. Cuando un buque pesquero se encuentre voluntariamente en un puerto de una de las Partes que no sea el Estado de su pabellón, dicha Parte, si tiene motivos razonables para creer que el buque pesquero ha sido utilizado para ejercer una actividad que debilite la eficacia de las medidas internacionales de conservación y ordenación, deberá informar inmediatamente al Estado del pabellón al respecto. Las Partes podrán concertar acuerdos respecto a la aplicación, por parte de los Estados del puerto, de las medidas de investigación que éstos consideren necesarias para determinar si el buque pesquero ha sido utilizado efectivamente en contra de las disposiciones de este Acuerdo.

3. Las Partes deberán, cuando y como sea apropiado, concertar acuerdos de cooperación o arreglos de mutua asistencia, de carácter mundial, regional, subregional o bilateral, a fin de promover la consecución de los objetivos del presente Acuerdo.

Artículo VI**INTERCAMBIO DE INFORMACIÓN**

1. Cada una de las Partes pondrá puntualmente a disposición de la FAO la siguiente información sobre cada uno de los buques pesqueros inscritos en el registro que deberá mantenerse en virtud del Artículo IV:

- (a) nombre del buque pesquero, número de registro, nombres anteriores (si se conocen), y puerto de registro;
- (b) pabellón anterior (en su caso);
- (c) señal de llamada de radio internacional (en su caso);
- (d) nombre y dirección del propietario o propietarios;
- (e) lugar y fecha de construcción;
- (f) tipo de buque;
- (g) eslora.

2. Cada una de las Partes deberá poner a disposición de la FAO, en la medida de lo posible, la siguiente información adicional respecto a cada uno de los buques pesqueros inscritos en el registro que deberá mantenerse en virtud del Artículo IV:

- (a) nombre y dirección del armador o armadores (en su caso);
- (b) tipo de método o métodos de pesca;
- (c) puntal de trazado;
- (d) manga;
- (e) tonelaje de registro bruto;
- (f) potencia del motor o motores principales.

3. Cada una de las partes deberá señalar inmediatamente a la FAO cualquier modificación en las informaciones indicadas en los párrafos 1 y 2 de este Artículo.

4. La FAO enviará periódicamente la información suministrada en virtud de los párrafos 1, 2 y 3 de este Artículo a todas las Partes y, previa petición, individualmente a cada una de ellas. La FAO enviará también dicha información, sin perjuicio de las limitaciones relativas a su distribución impuestas por la Parte interesada, a cualquier organización pesquera mundial, regional o subregional que la solicite expresamente.

5. Cada una de las Partes deberá, además, informar inmediatamente a la FAO en relación a:

- (a) cualquier adición al registro;
- (b) cualquier cancelación del registro por razón de:
 - (i) la renuncia voluntaria o la no renovación de la autorización de pesca por parte del propietario o del armador del buque pesquero;
 - (ii) el retiro de la autorización de pesca emitida respecto del buque pesquero en virtud del párrafo 8 del Artículo III;
 - (iii) el hecho de que el buque pesquero en cuestión ya no está autorizado a enarbolar su pabellón;
 - (iv) el desguace, decomiso o pérdida del buque pesquero en cuestión; o
 - (v) cualquier otra razón.

6. Cuando se proporcione a la FAO información con arreglo al párrafo 5(b) *supra*, la Parte interesada especificará cuál de las razones indicadas en dicho párrafo es aplicable.

7. Cada una de las Partes informará a la FAO acerca de:

- (a) cualquier exención concedida de conformidad con el párrafo 2 del Artículo II, el número y tipo de buque implicado y las zonas geográficas en que faenan dichos buques; y
- (b) cualquier acuerdo concertado de conformidad con el párrafo 3 del Artículo II.

8. (a) Cada una de las Partes comunicará inmediatamente a la FAO toda la información pertinente a las actividades de los buques pesqueros que enarbolan su pabellón que debiliten la eficacia de las medidas internacionales de conservación y ordenación, incluyendo la identidad del buque o buques pesqueros implicados y las medidas impuestas por la parte en relación a dichas actividades. La comunicación de las medidas impuestas por una Parte puede supeditarse a las limitaciones exigidas por la legislación nacional con respecto a la confidencialidad, en particular la confidencialidad relativa a medidas que aún no son definitivas.

- (b) Cuando una de las Partes tenga motivos razonables para creer que un buque pesquero no autorizado a enarbolar su pabellón ha realizado cualquier actividad que debilita la eficacia de las medidas internacionales de conservación y ordenación, deberá señalarlo a la atención del Estado del pabellón interesado y, según proceda, podrá señalarlo a la atención de la FAO. La parte proporcionará al Estado del pabellón todas las pruebas

de apoyo y podrá presentar a la FAO un resumen de las mismas. La FAO no distribuirá esta información hasta que el Estado del pabellón haya tenido la oportunidad de hacer comentarios sobre los puntos alegados y sobre las pruebas presentadas o, según sea el caso, de oponerse al respecto.

9. Cada una de las partes informará a la FAO de los casos en que una Parte, de conformidad con el párrafo 5(d) del Artículo III, haya concedido una autorización a pesar de las disposiciones del párrafo 5(a) o 5(b) del Artículo III. La información deberá incluir los datos pertinentes que permitan la identificación del buque pesquero y del propietario o armador y en su caso, cualquier otra información relacionada con la decisión de la Parte.

10. La FAO enviará inmediatamente la información suministrada en virtud de los párrafos 5,6,7, 8 y 9 de este Artículo a todas las Partes y, previa petición, individualmente a cada una de las partes. La FAO enviará también dicha información inmediatamente, sin perjuicio de las limitaciones relativas a la distribución impuestas por la parte interesada, a cualquier organización mundial, regional o subregional que la solicite expresamente.

11. Las partes intercambiarán información referente a la aplicación del presente Acuerdo, incluso a través de la FAO y otras organizaciones mundiales, regionales y subregionales pesqueras apropiadas.

Artículo VII

COOPERACIÓN CON LOS PAÍSES EN DESARROLLO

Las Partes cooperarán a escala mundial, regional, subregional o bilateral y, cuando sea oportuno, con el apoyo de la FAO y de otras organizaciones internacionales o regionales, para prestar asistencia, incluyendo asistencia técnica, a las Partes que son países en desarrollo a fin de ayudarles a cumplir sus obligaciones de conformidad con el presente Acuerdo.

Artículo VIII

TERCEROS

1. Las Partes alentarán a todo Estado que no sea parte en este Acuerdo a aceptarlo y alentarán a cualquiera que no sea Parte a adoptar leyes y reglamentos en conformidad con lo dispuesto en el presente Acuerdo.

2. Las Partes cooperarán de modo conforme con el presente Acuerdo y con el derecho internacional a fin de que los buques pesqueros autorizados a enarbolar el pabellón de cualquiera que no sea Parte no emprendan actividades que debiliten la eficacia de las medidas internacionales de conservación y ordenación.

3. Las Partes intercambiarán información entre sí, directamente o a través de la FAO, respecto a las actividades de los buques pesqueros que enarbolan el pabellón de cualquiera que no sea parte que debiliten la eficacia de las medidas internacionales de conservación y ordenación.

Artículo IX

SOLUCIÓN DE CONTROVERSIAS

1. Cualquiera de las Partes podrá entablar consultas con otra u otras Partes sobre cualquier controversia con respecto a la interpretación o aplicación de las disposiciones del presente Acuerdo con el fin de llegar lo antes posible a una solución satisfactoria para todos.

2. En el caso de que la controversia no se resuelva a través de estas consultas en un período de tiempo razonable, las Partes de que se trate se consultarán entre ellas lo antes posible con el fin de solucionar la controversia mediante negociación, investigación, mediación, conciliación, arbitraje, resolución judicial u otro medio pacífico de su propia elección.

3. Toda controversia de esta índole no resuelta se someterá, con el consentimiento de todas las Partes en conflicto, para su resolución a la Corte Internacional de Justicia, al Tribunal Internacional del Derecho del Mar cuando entre en vigor la Convención de las Naciones Unidas sobre el Derecho del Mar de 1982, o al arbitraje. Si no se llegara a un acuerdo sobre el recurso a la Corte Internacional de Justicia, al Tribunal Internacional del Derecho del Mar, o al arbitraje, las Partes deberán continuar las consultas y cooperar a fin de llegar a la solución de la controversia de conformidad con los principios del derecho internacional relativos a la conservación de los recursos marinos vivos.

Artículo X

ACEPTACIÓN

1. El presente Acuerdo estará abierto a la aceptación de cualquier Miembro o Miembro Asociado de la FAO y de cualquier Estado no miembro que sea miembro de las Naciones Unidas, o de cualquiera de sus organismos especializados, o del Organismo Internacional de Energía Atómica.

2. La aceptación del presente Acuerdo se hará efectiva mediante el depósito de un instrumento de aceptación en el poder del Director General de la FAO (a partir de aquí denominado "Director General").

3. El Director General informará a todas las partes, a todos los Miembros y Miembros Asociados de la FAO y al Secretario General de las Naciones Unidas de todos los instrumentos de aceptación recibidos.

4. Cuando una organización regional de integración económica sea parte en el presente Acuerdo, dicha organización regional de integración económica deberá, de conformidad con lo dispuesto en el Artículo II.7 de la Constitución de la FAO, notificar, según proceda, las modificaciones o aclaraciones a su declaración de competencia, presentada de conformidad con el Artículo II.5 de la Constitución de la FAO, que sean necesarias teniendo en cuenta su aceptación del presente Acuerdo. Cualquier parte en el presente Acuerdo podrá, en cualquier momento, pedir a una organización regional de integración económica que sea Parte en el mismo que presente información acerca de quién es responsable, la organización regional de integración económica o sus Estados Miembros, de la ejecución de cualquier asunto concreto incluido en el presente Acuerdo. La organización regional de integración económica deberá presentar esta información en un plazo razonable de tiempo.

Artículo XI

ENTRADA EN VIGOR

1. El presente Acuerdo entrará en vigor a partir de la fecha en que el Director General reciba el vigésimoquinto instrumento de aceptación.

2. A los efectos del presente Artículo, el instrumento depositado por una organización regional de integración económica no se considerará como adicional a los instrumentos depositados por los Estados Miembros de dicha organización.

Artículo XII

RESERVAS

La aceptación del presente Acuerdo podrá estar sujeta a reservas, que solamente serán efectivas tras la aceptación unánime por todas las Partes en el presente Acuerdo. El Director General notificará inmediatamente a todas las Partes cualquier reserva. Se considerará que las partes que no hayan respondido en un plazo de tres meses a partir de la fecha de la notificación han aceptado la reserva. En caso que no se produzca dicha aceptación, el Estado o la organización regional de integración económica que haya formulado la reserva no llegará a ser Parte en el presente Acuerdo.

Artículo XIII

ENMIENDAS

1. Cualquier propuesta que haga una Parte para enmendar este Acuerdo, deberá comunicarse al Director General.

2. Cualquier propuesta de enmienda al presente Acuerdo que reciba el Director General de una Parte deberá ser presentada en un período ordinario o extraordinario de sesiones de la Conferencia para su aprobación y, si la enmienda implica cambios técnicos

de importancia o impone obligaciones adicionales a las partes, deberá ser estudiada por un comité consultivo de especialistas que convoque la FAO antes de la Conferencia.

3. El Director General notificará a las Partes cualquier propuesta de enmienda del presente Acuerdo, a más tardar en la fecha en que se envíe el programa del período de sesiones de la Conferencia en el cual haya de considerarse dicha enmienda.

4. Cualquiera de las enmiendas al Acuerdo, así propuesta, requerirá la aprobación de la Conferencia y entrará en vigor a partir del trigésimo día después de su aceptación por las dos terceras Partes. Sin embargo, las enmiendas que impliquen nuevas obligaciones para las Partes entrarán en vigor, para cada una de dichas Partes, solamente después de que las hayan aceptado y a partir del trigésimo día después de dicha aceptación. Se considerará que cualquier enmienda entraña nuevas obligaciones para las Partes, a menos que la Conferencia, al aprobar la enmienda, decida otra cosa por consenso.

5. Los instrumentos de aceptación de las enmiendas que impliquen nuevas obligaciones deberán depositarse en el poder del Director General, quien a su vez deberá informar a todas las Partes del recibo de las aceptaciones y la entrada en vigor de las enmiendas.

6. A los efectos del presente Artículo el instrumento depositado por una organización regional de integración económica no se considerará como adicional a los instrumentos depositados por los Estados Miembros de dicha organización.

Artículo XIV

DENUNCIA

Cualquiera de las Partes podrá en cualquier momento denunciar este Acuerdo una vez transcurridos dos años desde la fecha en que el Acuerdo entró en vigor con respecto a dicha Parte, notificando por escrito dicha denuncia al Director General, el cual informará inmediatamente de la denuncia a todas las partes y a los Miembros y Miembros Asociados de la FAO. La denuncia entrará en vigor al final del año civil siguiente a aquel en que el Director General recibió la notificación de la denuncia.

Artículo XV

DEBERES DEL DEPOSITARIO

El Depositario del presente Acuerdo será el Director General. El Depositario deberá:

- (a) enviar copias certificadas del presente Acuerdo a cada Miembro y Miembro Asociado de la FAO y a los Estados no miembros que puedan llegar a ser partes en el presente Acuerdo;

(b) encargarse de que el presente Acuerdo, en el momento de su entrada en vigor, se registre en la Secretaría de las Naciones Unidas de conformidad con el Artículo 102 de la Carta de las Naciones Unidas;

(c) informar a cada Miembro y Miembro Asociado de la FAO y a cualquier Estado no miembro que pueda llegar a ser Parte en el presente Acuerdo de:

- (i) los instrumentos de aceptación depositados de conformidad con el Artículo X;
- (ii) la fecha de entrada en vigor del presente Acuerdo de conformidad con el Artículo XI;
- (iii) las propuestas de enmiendas a este Acuerdo y su entrada en vigor de conformidad con el Artículo XIII; y
- (iv) las denuncias al presente Acuerdo de conformidad con el Artículo XIV.

Artículo XVI

TEXTOS AUTÉNTICOS

Los textos árabe, chino, español, francés e inglés del presente Acuerdo son igualmente auténticos.

促进公海渔船遵守国际养护 及管理措施的协定

序言

本协定各缔约方

认识到所有国家的国民均有权在公海上捕捞，但必须遵守《联合国海洋法公约》体现的有关国际法规则；

还认识到根据《联合国海洋法公约》体现的国际法，所有国家都有义务对本国公民采取或与其他国家合作采取必要的措施以保护公海生物资源；

承认所有国家根据本国政策发展渔业部门的权益以及促进与发展中国家的合作以提高它们根据协定履行义务的能力的必要性；

忆及联合国环境与发展会议通过的《21世纪行动议程》呼吁各国按照国际法采取有效的行动，阻止其国民把改挂船旗作为躲避遵守适用于公海捕捞活动的保护和管理条例的一种手段；

还忆及负责任的捕捞国际会议通过的《坎昆宣言》也呼吁各国在这方面采取行动；

牢记根据《21世纪行动议程》，各国承诺致力保护和可持续地利用公海海洋生物资源；

呼吁未参加国际、区域或分区域渔业组织或安排的各国加入这种组织和安排，或酌情与这种组织或与这种组织或安排的参加国达成谅解，以期国际保护和管理措施得到遵守；

意识到每个国家有责任对悬挂其旗帜的船只，包括渔船和从事渔获物转运的船只，进行有效的管辖和控制；

注意到渔船悬挂或改挂船旗作为躲避遵守海洋生物资源国际保护和管理措施的一种手段和船旗国未履行对有权悬挂其旗帜的渔船的责任，是严重损害这种措施的效力的因素之一；

认识到通过规定船旗国对有权悬挂其旗帜并在公海上作业的渔船的责任，包括这种作业须由船旗国批准的责任，通过交换有关公海捕捞的情况加强国际合作，增加透明度即能实现本协定的目标；

注意到本协定将是《坎昆宣言》要求制定的国际负责任捕捞行动守则的不可分割的一部分；

希望在联合国粮食及农业组织（下文简称粮农组织）体系内根据粮农组织《章程》第十四条签订一项国际协定。

一致同意如下：

第一条 定义

用于本协定时：

- (a) “渔船”系指用于或打算用于商业性开发海洋生物资源的任何船只，包括母船和直接从事这类捕捞活动的任何其它船只。
- (b) “国际保护和管理措施”指根据 1982 年《联合国海洋法公约》中体现的国际法有关规则采取和应用的旨在保护或管理一种或多种海洋生物资源的措施。这种措施可以由全球、区域或分区域渔业组织视其成员国的权利和义务来采取或以条约或其它国际协定来采取；
- (c) “长度”系指
 - (i) 1982 年 7 月 18 日以后建造的任何渔船从龙骨顶部测量的最小型深的 85% 处的水线总长度的 96%，或指该水线上从船头前端到舵轴的长度，如果该长度更长的话。在设计有龙骨倾角的船只上，计量这一长度的水线应与设计水线对应；
 - (ii) 1982 年 7 月 18 日之前建造的任何渔船的载入国家注册簿或其它船舶档案中的注册长度；
- (d) “渔船档案”，系指其中载有渔船有关细节的渔船档案。它可以是单独渔船的档案，也可以是一般船舶档案的一部分；
- (e) “区域经济一体化组织”系指这样一个区域经济一体化组织，即其成员国已向其移交在本协定所涉及事项方面的权力，包括就这些事项作出对其成员国具有约束力的决定的权力；
- (f) “有权悬挂其旗帜的船只”和“有权悬挂一国旗帜的船只”包括有权悬挂一个区域经济一体化组织中一个成员国国旗的船只；

第二条

适用

1. 本协定应适用所有用于或打算用于公海捕捞的船只；但本条以下各款规定者除外。
2. 如果缔约一方断定对有权悬挂其旗帜的、长度不足 24 米的渔船免予适用本协定的做法不会有损本协定的目标和宗旨，该缔约方可予以此种豁免，但此种豁免：
 - (a) 不应授予在下文第 3 款所述捕捞区作业又无权悬挂该捕捞区沿海国旗帜的渔船；
 - (b) 不适用于缔约方根据本协定第三条第 1 款或第六条第 7 款履行的义务。
3. 在不损害上述第 2 款规定的情况下，在相邻的沿海国家尚未宣布专属经济区或相当的国家渔业管辖区的任何捕捞区内，参加本协定的此类沿海国家可以直接或通过有关区域渔业组织协商确定渔船的最短长度，对短于这个长度的悬挂此类沿海国家旗帜并专在此类捕捞区作业的渔船不适用本协定。

第三条

船旗国的责任

1.
 - (a) 每一缔约方均应采取必要的措施以确保有权悬挂其国旗的渔船不从事任何损害国际保护和管理措施效力的活动。
 - (b) 如果缔约一方依照第二条第 2 款对悬挂其旗帜的长度不足 24 米的渔船免予适用本协定的其它条款，此缔约国仍应对其中任何有损国际保护和管理措施效力的渔船采取有效措施。
2. 尤其是，任何缔约方均不应允许有权悬挂其旗帜但未经其有关当局授权的任何渔船用于公海捕捞，经其授权在公海上进行捕捞的渔船应按照授权规定的条件进行捕捞。
3. 任何缔约方除非确信有权悬挂其旗帜的渔船与其之间的现有关系使该缔约方能够对该渔船有效地履行本协定所规定的职责，否则不应授权该渔船用于公海捕捞。

4. 由缔约一方授权用于公海捕捞的渔船如不再有权悬挂该方的国旗，此种可在公海捕捞的授权应视为已被撤销。
 5. (a) 任何缔约方均不应授权任何以前在另一缔约方领土内注册但曾损害国际护和管理措施效力的渔船用于公海捕捞，除非该缔约方确信：
 - i. 另一缔约方中止此种渔船用于公海捕捞的授权的期限已满；
 - ii. 此种渔船在过去三年内未曾被另一缔约方撤销其用于公海捕捞的授权。
 - (b) 上述第(a)项的规定也适用于以前在另一个非本协定缔约方的国家领土内注册的渔船，但该有关缔约方必须能够获得充足的资料，了解捕捞权被中止或撤销的原委。
 - (c) 如渔船的所有权此后已有改变，新船主已提出充分证据表明前船主或经营者与该渔船不再有任何法律、受益或财务关系，也不再拥有该渔船的控制权，则第(a)和(b)项的规定不适用。
 - (d) 虽有上述(a)和(b)两项规定，一缔约方仍可授权本可适用上述两项规定的渔船用于公海捕捞，但须该有关缔约方考虑全部有关事实、包括捕捞权遭另一缔约方或另一国撤销的原委后，断定授权使用该船进行公海捕捞不会有损本协定的目标和宗旨。
6. 每一缔约方均应确保所有有权悬挂其旗帜的并已根据第五条登记的渔船均有适当标志，以便按照公认的标准如粮农组织的《渔船标志和识别标准规格》随时加以识别。
7. 每一缔约方均应确保，有权悬挂其旗帜的每一艘渔船向其提供有关其作业情况的必要资料，其中特别要提供有关其捕捞作业区域、渔获量和上岸量的情况，以便该缔约方按照本协定履行其义务。
8. 每一缔约方均应对有权悬挂其旗帜、违反本协定条款的渔船采取强制措施，其中可酌情包括将违反此类条款的行为定作违反国内立法的行为的措施。对这类违反行为所适用的制裁必须严厉得足以有效地确保本协定的要求得到遵守并剥夺违反者非法活动所获利益。对严重违反行为而言，此种制裁应包括拒绝授予、中止或撤销公海捕捞权。

第四条 渔船档案

为了本协定的目的，每一缔约方均应对有权悬挂其旗帜并获得授权用于公海捕捞的渔船建有档案，并采取必要措施，确保此类渔船全部都登记入档。

第五条 国际合作

1 各缔约方均应酌情合作实施本协定，尤其应交流同渔船活动有关的资料，包括证据材料，以协助船旗国查明据报告悬挂其旗帜而从事损害国际保护和管理措施活动的那些渔船，从而履行第三条规定的义务。

2 如一渔船自愿进入其船旗国之外的一个缔约方的港口，该缔约方如果有适当根据相信该渔船被用于进行损害国际保护和管理措施的效力的活动，应据此立即通知船旗国。各缔约方可作出安排，由港口国采取其认为必要的调查措施，以确定该渔船是否确实用于有违本协定条款的活动。

3 必要时各缔约方应酌情在全球、区域、分区域或双边基础上缔结合作协定或作出互助安排，以便促进实现本协定的目标。

第六条 信息交流

1 每一缔约方均应随时向粮农组织提供同登入第四条规定建立的档案中的各渔船有关的下列资料：

- (a) 渔船名、登记号、原名（如知道）和登记港；
- (b) 原船旗（如有）；
- (c) 国际无线电呼号（如有）；
- (d) 船主或船主们的姓名和地址；
- (e) 建造地点和时间；
- (f) 船舶类型；
- (g) 长度。

2 第一缔约方均应尽量向粮农组织提供同登入第四条规定建立的档案中的各渔船有关的下列额外资料：

- (a) 经营者的姓名和地址（如有）；
- (b) 捕捞方法类别；
- (c) 型深；
- (
d) 船宽；
- (e) 登记总吨位；
- (f) 一个或若干主发动机的功率。

3 本条第 1 款和第 2 款中规定提供的资料如有任何变动，每一缔约方均应立即通报粮农组织。

4 粮农组织应把根据本条第 1 款、第 2 款和第 3 款提供的资料定期分发给各缔约方，如任何一方索取应个别提供。任何国际、区域或分区域渔业管理机构凡索取此种资料，粮农组织也应个别提供，但须遵守有关缔约方对分发资料所作的任何限制。

5 每一缔约方还应立即向粮农组织通报下述情况：

- (a) 档案的任何补充；
- (b) 档案的任何删除，其原因是
 - (i) 渔船主或经营者自愿放弃或不再延长捕捞权；
 - (ii) 根据第三条第 9 款撤销有关渔船的捕捞权；
 - (iii) 有关渔船已没有权利再悬挂其旗帜；
 - (iv) 有关渔船已报废、退役或失踪；
 - (v) 任何其它原因。

6 有关缔约方如根据上述第 5 款第(b)项向粮农组织提供资料，应具体说明该款所列哪一条原因适用。

7 每一缔约方均应通知粮农组织：

- (a) 其根据第二条第 2 款准予的任何豁免，所涉渔船的数量和类型以及此种渔船作业所在的地理区域；以及

- (b) 根据第二条第 3 款达成的任何协议。
- 8 (a) 每一缔约方均应立即向粮农组织通报悬挂其旗帜的渔船进行的任何有损国际保护和管理措施效力的活动的全部有关情况，包括所涉渔船的身份以及该缔约方对这类活动采取的措施。关于某一缔约方采取的措施的报告可受到该缔约方国内法律对保密、尤其是对尚未最终确定的措施的保密所作规定的限制。
- (b) 任何缔约一方凡有适当根据认为无权悬挂其旗帜的某一艘渔船从事了损害国际保护和管理措施效力的任何活动，均应提请有关船旗国予以注意，并可酌情提请粮农组织予以注意。该缔约方应向船旗国提供全部证据，并可向粮农组织提供此类证据的概要。在船旗国有机会对这一指控及提供的证据发表意见或根据具体情况提出反对意见之前，粮农组织不应分发此种资料。
- 9 每一缔约方均应向粮农组织通报任何其否定第三条第 5 款第(a)项或第(b)项的规定，而根据第三条第 5 款第(d)项授权的情况。通报应包括有助于识别渔船和船主或经营者的有关资料及其他任何与该缔约方作出决定有关的情况。
- 10 粮农组织应把根据本条第 5 款、第 6 款、第 7 款、第 8 款和第 9 款提供的资料立即分发给各缔约方，如任何一方索取，应个别提供。国际、区域和分区域渔业管理机构凡索取此种资料，粮农组织也应个别提供，但须遵守有关缔约方对分发资料所作的任何限制。
- 11 各缔约方应相互交流，包括通过粮农组织及其它有关的全球、区域和分区域渔业组织交流本协定的实施情况。

第七条

与发展中国家合作

各缔约方应在粮农组织和其它国际机构的支持下，在全球、区域、分区域或双边一级进行合作，向发展中国家各缔约方提供援助，其中包括技术援助，协助它们履行本协定规定的义务。

第八条 非缔约方

- 1 各缔约方应鼓励非本协定缔约方的任何国家接受本协定，并应鼓励任何非缔约方采用符合本协定条款的法律和条例。
- 2 各缔约方应以符合本协定和国际法的方式合作以使有权悬挂非缔约方旗帜的渔船不从事损害国际保护和管理措施的效力的活动。
- 3 各缔约方应直接或通过粮农组织，相互交流有关悬挂非缔约方旗帜的渔船损害国际保护和管理措施效力的活动情况。

第九条 争端的解决

- 1 任何缔约方均可谋求与其它任何一个或几个缔约方就本协定条款的解释和适用方面的任何争端进行磋商，以尽快达成互相都满意的解决办法。
- 2 如果争端在相当的一段时间内未能通过这种磋商得到解决，当事各方则应尽快相互协商，以便通过谈判、调查、调停、调解、仲裁、司法解决等各种自选的和平手段解决争端。
- 3 这种性质的任何争端如用上述办法无法解决，则应征得争端各方同意后，提交国际法院、国际海洋法法庭或交由仲裁解决。如未能就提交国际法院、国际海洋法法庭或仲裁一事取得一致意见，有关各方应继续协商和合作，以便依照有关保护海洋生物资源的国际法规则解决争端。

第十条 接受

- 1 本协定对粮农组织的任何成员国或准成员国以及任何非粮农组织成员的联合国会员国、联合国各专门机构或国际原子能机构成员国开放供接受。
- 2 本协定的接受应通过向粮农组织总干事（下文简称总干事）交存接受书实现。
- 3 总干事应向所有缔约方、粮农组织所有成员国及准成员国和联合国秘书长通报所有收到的接受书。

4 区域经济一体化组织加入本协定时，则此种区域经济一体化应酌情依照粮农组织《章程》第二条第七款的规定，通报其根据本协定接受书对其依照粮农组织《章程》第二条第五款提交的权限声明作必要的修改或说明。本协定任何缔约方均可随时要求已加入本协定的区域经济一体化组织告知，在该区域经济一体化组织及其成员国两方之间，哪一方负责执行本协定所涉的某具体事项。该区域经济一体化组织应在适当的时间内告知。

第十一条 生效

1 本协定应从总干事收到第二十五份接受书之日起生效。

2 就本条而言，一个区域经济一体化组织交存的文书不应在该组织的成员国交存的文书之外另算。

第十二条 保留

接受本协定时可有保留，而保留只应在本协定各缔约方一致接受时才生效。总干事应立即向各缔约方通报任何提出的保留。从通报之日起三个月内未作答复的缔约方应视作已经接受保留。如果保留未被接受，提出该保留意见的国家或区域经济一体化组织不应成为本协定的缔约一方。

第十三条 修正

1 缔约一方如有任何修正本协定的提案均应交给总干事。

2 总干事收到某一缔约方对本协定提出的任何修正案，应提交大会的例会或特别会议批准；如果修正案涉及重要的技术性改动或增加各缔约方的义务，应由粮农组织召集的专家咨询委员会在大会召开之前进行审议。

3 总干事向各缔约方通报对本协定提出的任何修正案的时间不应迟于拟将审议该事项的大会届会议程的发出时间。

4 对本协定提出的任何这类修正案，应得到大会的批准，并应从得到三分之二的缔约方接受之后的第 30 天起生效。然而，涉及各缔约方承担新义务的修正案，只应在每

一缔约方接受之后并从该缔约方接受之后的第 30 天起才对其生效。任何修正案应视为对各缔约方产生新的义务，除非大会在批准修正案时按一致意见另有决定。

5 涉及新义务的修正案的接受书应交总干事保存，总干事应向所有缔约方通报收到接受书和修正案生效的情况。

6 就本条而言，一个区域经济一体化组织交存的文书不应在这一组织的成员国交存文书之外另算。

第十四条

退出

任何缔约方均可在本协定对其生效之日起的两年期满后随时退出本协定，但此种退出须以书面形式通知总干事，总干事应立即将此退出通知各缔约方和粮农组织的成员国和准成员国。退出应在总干事收到退出通知书的日历年度之翌年年底生效。

第十五条

保管人的义务

总干事应是本协定的保管人。保管人应：

- (a) 把本协定经核定的副本送交粮农组织的各成员国和准成员国以及可能加入本协定的非成员国；
- (b) 在本协定一俟生效后即按照《联合国宪章》第一百零二条的规定，安排在联合国秘书处登记本协定的事宜；
- (c) 向粮农组织各成员国和准成员国以及任何可能加入本协定的非成员国通知下述情况：
 - (i) 按照第十条交存的接受书；
 - (ii) 按照第十一条本协定生效的日期；
 - (iii) 按照第十三条对本协定提出的修正案及修正的生效；
 - (iv) 根据第十四条退出本协定。

第十六条
有效文本

本协定的阿拉伯文、中文、英文、法文和西班牙文文本具有同等效力。

اتفاقية تعزيز امتثال سفن الصيد
في أعالي البحار
لتدابير الصيانة والادارة الدولية



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لتدابير الصيانة والإدارة الدولية

منظمة الأغذية والزراعة للأمم المتحدة
روما، 1995

الطبعة العربية الأولى 1995

الطبعة العربية الثانية 1997

الطبعة العربية الثالثة 1999

الأوصاف المستخدمة في هذا المطبوع وطريقة عرض موضوعاته لا
تعبر عن أي رأي خاص لمنظمة الأغذية والزراعة للأمم المتحدة
فيما يتعلق بالوضع القانوني لأي بلد أو إقليم أو مدينة أو منطقة،
أو فيما يتعلق بسلطاتها أو بتعيين حدودها وتخومها.

M-40
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حقوق الطبع محفوظة لمنظمة الأغذية والزراعة للأمم المتحدة ولا يجوز، كليا أو جزئيا،
إعادة طبع هذا الكتاب أو تخزينه في أي نظام لاسترجاع المعلومات أو نقله بأي شكل من
الأشكال أو بأي وسيلة من الوسائل سواء كانت إلكترونية أو ميكانيكية أو بالاستنساخ
الفوتوغرافي إلا بترخيص مكتوب من صاحب حقوق الطبع. وتقدم طلبات الحصول على
هذا الترخيص مع بيان الغرض منه وحدود استعماله إلى:

The Director, Information Division,
Food and Agriculture Organization of the United Nations,
Viale delle Terme di Caracalla, 00100 Rome, Italy.

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تيسيرا للرجوع إلى الببليوغرافيا ذات الصلة، يشار إلى هذه الوثيقة على النحو التالي:

منظمة الأغذية والزراعة

اتفاقية تعزيز امتثال سفن الصيد في أعالي البحار

لتدابير الصيانة والإدارة الدولية.

روما، منظمة الأغذية والزراعة، 1995.

نسخة أصلية معتمدة من النصوص الإنكليزية والفرنسية والأسبانية والعربية والصينية لاتفاقية تعزيز امتثال سفن الصيد في أعالي البحار للتدابير الدولية لصيانة الموارد وإدارتها، التي وافق عليها المؤتمر العام لمنظمة الأغذية والزراعة للأمم المتحدة في 24 نوفمبر/ تشرين الثاني 1993 أثناء دورته السابعة والعشرين بمقتضى قراره 93/15.

اتفاقية تعزيز امتثال سفن الصيد في

أعالي البحار لتدابير الصيانة

والإدارة الدولية

ديباجة

إن الأطراف في هذه الاتفاقية،

إذ تعترف بأن من حق جميع الدول أن يمارس مواطنوها الصيد في أعالي البحار، بشرط مراعاة قواعد القانون الدولي ذات الصلة على النحو الوارد في اتفاقية الأمم المتحدة لقانون البحار،

وإذ تقر كذلك بأن من واجب جميع الدول، بموجب القانون الدولي على النحو الوارد في اتفاقية الأمم المتحدة لقانون البحار، أن تتخذ ما قد يكون ضروريا من تدابير فيما يخص مواطنيها من أجل صيانة الموارد الحية في أعالي البحار، أو أن تتعاون مع دول أخرى في اتخاذ تلك التدابير،

وإذ تسلّم بحق جميع الدول ومصلحتها في تنمية قطاعات الصيد فيها وفقا لسياساتها الوطنية، وبالحاجة إلى تعزيز التعاون مع البلدان النامية من أجل النهوض بقدراتها على أداء التزاماتها بموجب هذه الاتفاقية،

وإذ تستذكر أن جدول أعمال القرن 21 الصادر عن مؤتمر الأمم المتحدة المعني بالبيئة والتنمية، يهيب بالدول أن تتخذ إجراءات فعالة، تتفق مع القانون الدولي، لمنع مواطنيها من تغيير أعلام السفن كوسيلة لتجنب الامتثال لقواعد الصيانة والإدارة السارية على أنشطة الصيد في أعالي البحار،

وإذ تستذكر كذلك أن إعلان كانكون، الذي أقره المؤتمر الدولي المعني بالصيد الرشيد، يهيب أيضا بالدول أن تتخذ الإجراءات الواجبة في هذا الصدد،

وإذ تضع في اعتبارها أن الدول قد التزمت، بموجب جدول أعمال القرن 21، بصيانة الموارد البحرية الحية في أعالي البحار وباستخدامها بطريقة مستدامة،

وإذ تهيئ بالدول التي لا تشترك في منظمات أو ترتيبات عالمية أو إقليمية أو شبه إقليمية لمصايد الأسماك أن تنضم إلى هذه المنظمات أو الترتيبات أو أن تبرم، عند الاقتضاء، مذكرات تفاهم مع تلك المنظمات أو مع الأطراف في تلك المنظمات أو الترتيبات بغية تسهيل الامتثال للتدابير الدولية للصيانة والإدارة،

وإذ تعي واجبات كل دولة في أن تمارس، ممارسة فعالة، ولايتها الوطنية وإشرافها على السفن التي ترفع علمها، بما فيها سفن الصيد والسفن المشتركة في إعادة نقل الأسماك في وسط البحر.

وإذ تدرك أن اللجوء إلى رفع الأعلام على سفن الصيد وتغيير هذه الأعلام بقصد تجنب الامتثال للتدابير الدولية للصيانة والإدارة الخاصة بالموارد البحرية الحية، وإخفاق دول العلم في الوفاء بمسؤولياتها إزاء سفن الصيد التي يحق لها أن ترفع أعلامها هما من العوامل التي تقوض بصورة خطيرة فعالية هذه التدابير.

وإذ تدرك أنه يمكن تحقيق هدف هذه الاتفاقية عن طريق تحديد مسؤولية دول العلم إزاء سفن الصيد التي يحق لها رفع أعلامها، والتي تمارس الصيد في أعالي البحار، بما في ذلك ترخيص دولة العلم بهذه العمليات، وكذلك عن طريق تعزيز التعاون الدولي، وزيادة الوضوح والشفافية من خلال تبادل المعلومات عن الصيد في أعالي البحار.

وإذ تلاحظ أن هذه الاتفاقية ستشكل جزءاً أساسياً من مدونة السلوك الدولية بشأن الصيد الرشيد التي طالب بوضعها إعلان كانكون.

وإذ ترغب في إبرام اتفاقية دولية، في إطار منظمة الأغذية والزراعة للأمم المتحدة، ويشار إليها فيما بعد باسم المنظمة، بموجب المادة 14 من دستور المنظمة.

قد اتفقت على ما يلي :

المادة الأولى

التعريف

لأغراض هذه الاتفاقية :

(أ) تعني "سفينة الصيد" أي سفينة مستخدمة أو معدة للاستخدام في أغراض الاستغلال التجاري للموارد البحرية الحية، وتشمل السفن الأم وأي سفن أخرى تشارك مباشرة في عمليات الصيد هذه،

(ب) تعني "التدابير الدولية للصيانة والإدارة" تدابير صيانة أو إدارة صنف أو أكثر من الموارد البحرية الحية تعتمد وتطبق وفقاً لقواعد القانون الدولي ذات الصلة على النحو الوارد في اتفاقية الأمم المتحدة لقانون البحار لعام 1982. ويجوز اعتماد هذه التدابير من جانب المنظمات العالمية أو الإقليمية، أو شبه الإقليمية لمصايد الأسماك، مع مراعاة حقوق والتزامات أعضائها، أو بموجب معاهدات اتفاقيات دولية أخرى،

(ج) يعني "الطول"

(1) فيما يتعلق بأي سفينة صيد تم بناؤها بعد 18 يوليو/ تموز 1992، نسبة 96 في المائة من الطول الكلي على خط الماء عند 85 في المائة من أقل عمق مشكل لدى قياسه من قمة أرينة السفينة، أو الطول من مقدمة السفينة إلى محور عمود تحريك الدفة على خط الماء المذكور، إذا كان خط الماء أطول. وإذا كانت السفينة مجهزة بأرينة مائلة يجب أن يكون خط الماء الذي يقاس عليه هذا الطول موازياً لخط الماء حسب التصميم،

(2) فيما يتعلق بأي سفينة تم بناؤها قبل 18 يوليو/ تموز 1982، يكون الطول هو الطول المسجل المدرج في السجل الوطني أو أي سجل آخر للسفن.

(د) يعني "سجل سفن الصيد"، السجل الذي تدون فيه التفاصيل ذات الصلة بسفينة الصيد. ويجوز أن يكون سجلا منفصلا لسفن الصيد أو جزءا من سجل عام للسفن،

(هـ) تعني عبارة "المنظمة الإقليمية للتكامل الاقتصادي" أي منظمة إقليمية للتكامل الاقتصادي تكون دولها الأعضاء قد نقلت إليها اختصاصاتها بشأن المسائل التي تغطيها هذه الاتفاقية، بما في ذلك سلطة اتخاذ القرارات الملزمة لدولها الأعضاء فيما يتصل بتلك المسائل،

(و) تشمل عبارة "السفن التي يحق لها رفع علمها" وعبارة "السفن التي يحق لها رفع علم دولة ما"، السفن التي يحق لها رفع علم دولة عضو في منظمة إقليمية للتكامل الاقتصادي.

المادة الثانية

التطبيق

1- مع مراعاة الفقرات التالية من هذه المادة، تطبق هذه الاتفاقية على جميع سفن الصيد المستخدمة أو المعدة للصيد في أعالي البحار.

2- يجوز لأحد أطراف الاتفاقية أن يعفي سفن الصيد التي يقل طولها عن 24 مترا والتي يحق لها رفع علمه من الخضوع لتطبيق هذه الاتفاقية مالم يقرر الطرف المذكور أن هذا الإعفاء سيقوض الهدف والغرض من هذه الاتفاقية، بشرط أن هذه الإعفاءات:

(أ) لا تمنح لسفن الصيد العاملة في مناطق الصيد المشار إليها في الفقرة 3 أدناه بخلاف سفن الصيد التي يحق لها رفع علم دولة ساحلية في منطقة الصيد المشار إليها،

(ب) لا تطبق على الالتزامات التي يتعهد بها أحد الأطراف بموجب الفقرة 1 من المادة الثالثة أو الفقرة 7 من المادة السادسة من هذه الاتفاقية.

3- ودون الإخلال بالأحكام الواردة في الفقرة 2 أعلاه، يجوز، في أي إقليم صيد لم تعلن فيه الدول الساحلية المطلة عليه مناطق اقتصادية خالصة أو ما يماثلها من مناطق للولاية على مصايد الأسماك، أن تتفق هذه الدول الساحلية،

بوصفها أطرافاً في هذه الاتفاقية، بصورة مباشرة أو من خلال منظمات مصايد الأسماك الإقليمية المعنية، على تعيين حد أدنى لطول سفن الصيد لا تطبق هذه الاتفاقية دونه على أي سفن صيد ترفع علم أي من هذه الدول الساحلية وينحصر نشاطها في إقليم الصيد المذكور.

المادة الثالثة

مسؤولية دولة العلم

1- (أ) يتخذ كل طرف ما يراه ضرورياً من تدابير لضمان ألا تمارس سفن الصيد التي يحق لها رفع علمه أي نشاط يقوض فعالية التدابير الدولية للصيانة والإدارة.

(ب) في حالة قيام أحد الأطراف، بمقتضى الفقرة 2 من المادة الثانية، بإعفاء سفن الصيد التي يقل طولها عن 24 متراً والتي يحق لها رفع علمه، من الامتثال للأحكام الأخرى في هذه الاتفاقية، على هذا الطرف أن يتخذ، مع ذلك، تدابير فعالة إزاء أي سفينة صيد من هذه السفن تقوض فعالية التدابير الدولية للصيانة والإدارة. وتكون هذه التدابير في شكل يضمن توقف سفينة الصيد عن ممارسة نشاطات تقوض فعالية التدابير الدولية للصيانة والإدارة.

2- لا يجوز، على وجه الخصوص، لأي طرف أن يسمح لأي سفينة صيد يحق لها رفع علمه بأن تستخدم في الصيد في أعالي البحار ما لم يكن مرخصاً لها بذلك من جانب السلطة أو السلطات المختصة التابعة لذلك الطرف المعني. وعلى سفينة الصيد المرخص لها أن تمارس الصيد طبقاً لشروط الترخيص المذكور.

3- لا يجوز لأي طرف الترخيص لأي سفينة صيد يحق لها رفع علمه بأن تستخدم للصيد في أعالي البحار ما لم يطمئن هذا الطرف إلى قدرته، بعد مراعاة الصلات القائمة بينه وبين سفينة الصيد المعنية. على أن يمارس مسؤولياته، في إطار هذه الاتفاقية، فيما يتعلق بسفينة الصيد المعنية.

4- عندما ينتفي حق سفينة الصيد، التي رخص لها أحد الأطراف بأن تستخدم في الصيد في أعالي البحار، في رفع علم ذلك الطرف، يعتبر الترخيص بالصيد في أعالي البحار ملغياً.

5- (أ) لا يجوز لأي طرف أن يرخص لأي سفينة صيد سبق تسجيلها في أقاليم طرف آخر، وقوضت فعالية التدابير الدولية الصيانة والإدارة، بأن تستخدم للصيد في أعالي البحار، ما لم يطمئن إلى:

(1) انقضاء، أي مدة يكون طرف آخر قد أوقف خلالها الترخيص لسفينة الصيد هذه بأن تستخدم في الصيد في أعالي البحار، و

(2) عدم قيام طرف آخر، خلال السنوات الثلاث الأخيرة بسحب الترخيص الصادر إلى سفينة الصيد هذه بالصيد في أعالي البحار،

(ب) تطبق أيضاً أحكام الفقرة الفرعية (1) أعلاه على سفن الصيد التي سبق تسجيلها في أقاليم دولة ليست طرف في هذه الاتفاقية بشرط توافر معلومات كافية للطرف المعني عن الظروف التي رافقت وقف أو سحب الترخيص بالصيد،

(ج) لا تسري أحكام الفقرتين الفرعيتين (1) و (2) عندما تكون ملكية سفينة الصيد قد تغيرت بعد ذلك، وقدم المالك الجديد قرائن كافية تبين عدم وجود أية مصالح قانونية أو انتفاعية أو مالية للمالك أو المشغل السابق في سفينة الصيد أو سيطرة عليها.

(د) بغض النظر عن أحكام الفقرتين الفرعيتين (1) و (2) أعلاه، لأحد الأطراف أن يرخص لسفينة صيد، التي لولا ذلك لسرت عليها أحكام تلك الفقرتين الفرعيتين، بأن تستخدم في الصيد في أعالي البحار، حيثما يقرر هذا الطرف، بعد مراعاة جميع الوقائع ذات الصلة، بما في ذلك الظروف التي سحب فيها طرف أو دولة أخرى ترخيص الصيد، أن منح الترخيص باستخدام السفينة في الصيد في أعالي البحار لن يقوض الغاية والهدف من هذه الاتفاقية.

6- على كل طرف أن يضمن أن جميع سفن الصيد التي يحق لها رفع علمه والتي أدرجها في السجل الذي يمسكه بموجب المادة الرابعة، تحمل علامات يسهل تمييزها طبقاً للمعايير المقبولة عموماً، مثل المواصفات الموحدة التي أعدتها

منظمة الأغذية والزراعة لوضع العلامات على سفن الصيد وتمييزها.

7- على كل طرف أن يضمن أن تزوده كل سفينة صيد يحق لها رفع علمه بما قد يكون ضروريا من معلومات بشأن عملياتها لكي يتمكن هذا الطرف من أداء التزاماته بموجب هذه الاتفاقية، بما في ذلك، على وجه الخصوص، المعلومات المتعلقة بالمنطقة التي تمارس فيها عمليات الصيد، وكميات الصيد والإنزال.

8- على كل طرف ان يتخذ إزاء سفن الصيد التي يحق لها رفع علمه، إن هي خالفت أحكام هذه الاتفاقية، تدابير إنفاذ قد تشمل عند الاقتضاء تجريم مخالفة تلك الأحكام بموجب تشريعاته الوطنية. ويجب أن تكون العقوبات المطبقة فيما يتصل بهذه المخالفات شديدة بما يكفل فعاليتها في ضمان الامتثال لأحكام هذه الاتفاقية، وحرمان مرتكبيها من الانتفاع بالمكاسب المستمدة من أنشطتهم غير المشروعة. ويجب أن تشمل هذه العقوبات بالنسبة للمخالفات الخطيرة رفض منح الترخيص بالصيد في أعالي البحار أو وقفه أو سحبه.

المادة الرابعة

سجلات سفن الصيد

على كل طرف أن يمسك، لأغراض هذه الاتفاقية، سجلا لسفن الصيد التي يحق لها رفع علمه، والتي رخص لها بأن تستخدم في الصيد في أعالي البحار، وعليه أن يتخذ ما قد يكون ضروريا من تدابير لضمان أن تدرج جميع سفن الصيد هذه في ذلك السجل.

المادة الخامسة

التعاون الدولي

1- على جميع الأطراف أن تتعاون، على النحو الملائم، في تنفيذ هذه الاتفاقية، وعليها، بوجه خاص، أن تتبادل المعلومات، بما فيها المواد الاستدلالية، المتعلقة بأنشطة سفن الصيد بغية مساعدة دولة العلم على تحديد سفن الصيد التي ترفع علمها، وتفيد التقارير أنها تمارس أنشطة تقوض التدابير الدولية للصيانة والإدارة، لكي يتسنى لهذه الدولة أن تؤدي التزاماتها بموجب المادة الثالثة.

2- عندما ترسو سفينة صيد طوعا في ميناء طرف غير الدولة التي ترفع السفينة علمها، على ذلك الطرف أن يبادر، إذا توافرت لديه أسباب معقولة تدعوه إلى الاعتقاد بأن سفينة الصيد المذكورة قد استخدمت في نشاط يقوض فعالية تدابير الصيانة والإدارة الدولية، إلى إبلاغ دولة العلم فورا بذلك وللأطراف أن تضع ترتيبات بشأن قيام دول الميناء بما تراه ضروريا من تدابير الاستقصاء لتحديد ما إذا كانت سفينة الصيد قد استخدمت بالفعل بما يتعارض مع أحكام هذه الاتفاقية.

3- على الأطراف أن تقوم، على النحو الملائم، بإبرام اتفاقيات تعاونية أو ترتيبات لتبادل المساعدات، على أساس عالمي أو إقليمي أو شبه إقليمي أو ثنائي من أجل التشجيع على تحقيق أهداف هذه الاتفاقية.

المادة السادسة

تبادل المعلومات

1- على كل طرف أن ييسر موافاة المنظمة بالمعلومات التالية بشأن كل سفينة صيد تدرج في السجل المطلوب إمساكه بموجب المادة الرابعة:

- (أ) اسم سفينة الصيد، ورقم التسجيل، والسماء السابقة (إذا كانت معروفة)، وميناء التسجيل؛
- (ب) العلم السابق (إن وجد)؛
- (ج) إشارة النداء اللاسلكي الدولي (إن وجدت)؛
- (د) اسم وعنوان المالك أو الملاك؛
- (هـ) مكان البناء وتاريخه؛
- (و) نوع السفينة؛
- (ز) طول السفينة.

2- على كل طرف أن يوافي، بالقدر الممكن عمليا، منظمة الأغذية والزراعة بالمعلومات الإضافية التالية بشأن كل سفينة صيد تدرج في السجل المطلوب إمساكه بموجب المادة الرابعة:

- (أ) اسم وعنوان المشغل أو المشغلين (إن وجدوا)؛
- (ب) نوع أسلوب أو أساليب الصيد؛

(ج) أقصى العمق المشكّل؛

(د) أقصى عرض؛

(هـ) السعة الإجمالية المسجلة؛

(و) طاقة المحرك الرئيسي أو المحركات الرئيسية.

3- على كل طرف أن يخطر المنظمة على وجه السرعة بأي تعديلات تطرأ على المعلومات المدرجة في الفقرتين 1 و 2 من هذه المادة.

4- على المنظمة أن تعمم المعلومات المقدمة بموجب الفقرات 1 و 2 و 3 من هذه المادة على جميع الأطراف بصفة دورية، وأن تقدمها عند الطلب بصفة فردية لكل طرف. وعلى المنظمة أن تقوم أيضاً، مع مراعاة أي قيود تتعلق بالسرية يفرضها الطرف المعني على توزيع المعلومات، بتوفير تلك المعلومات عند الطلب بصفة فردية لأي منظمة عالمية أو إقليمية أو شبه إقليمية لصايد الأسماك.

5- على كل طرف أن يوافق المنظمة على وجه السرعة بما يلي:

(أ) أي إضافة إلى السجل؛

(ب) أي حذف من السجل بسبب:

(1) التنازل الطوعي عن ترخيص الصيد أو عدم تجديده من جانب مالك سفينة الصيد أو مشغلها؛

(2) سحب ترخيص الصيد الصادر لسفينة الصيد بموجب الفقرة 8 من المادة الثالثة؛

(3) فقدان سفينة الصيد المعنية لحقها في رفع علمه؛

(4) اعتبار سفينة الصيد المعنية خردة أو وقف تشغيلها أو فقدانها؛

(5) أي سبب آخر.

6- عند موافاة المنظمة بمعلومات بموجب الفقرة 5 (2) أعلاه، على الطرف المعني أن يحدد أيًا من الأسباب المذكورة في تلك الفقرة ينطبق عليه الحذف.

7- على كل طرف أن يوافق المنظمة

(أ) بأي إعفاءات تمنح بموجب الفقرة 2 من المادة الثانية، وبعدهد سفن الصيد المعنية وأنواعها والمناطق الجغرافية التي تعمل بها سفن الصيد هذه؛

(ب) بأي اتفاق يتم التوصل إليه بموجب الفقرة 3 من المادة الثانية.

8- (أ) على كل طرف أن يوافق المنظمة على وجه السرعة بجميع المعلومات المتعلقة بأي أنشطة تقوم بها سفن الصيد التي ترفع علمه ويكون من شأنها أن تقوض فعالية التدابير الدولية للصيانة والإدارة، بما في ذلك هوية سفينة أو سفن الصيد المتورطة والتدابير التي فرضها ذلك الطرف بشأن هذه الأنشطة. وقد تخضع التقارير المتعلقة بالتدابير التي يفرضها أحد الأطراف لما قد يفرضه التشريع الوطني من قيود بشأن السرية، بما في ذلك على وجه الخصوص سرية التدابير التي لم تصبح نهائية بعد.

(ب) على كل طرف تجتمع لديه أسباب معقولة تدعوه للاعتقاد بأن سفينة صيد لا يحق لها رفع علمه قد اشتركت في أي نشاط يقوض فعالية التدابير الدولية للصيانة والإدارة أن يلغت انتباه دولة العلم المعنية إلى هذه الواقعة. وله أن يلغت إليها انتباه المنظمة إذا اقتضى الأمر. وعليه أن يزود دولة العلم بأدلة مؤيدة كاملة وله أن يزود المنظمة بموجز لهذه الأدلة. ولا تقوم المنظمة بتعميم هذه المعلومات إلا بعد أن تتاح لدولة العلم الفرصة للتعقيب على الإدعاء والأدلة المقدمين أو للاعتراض عليهما حسب مقتضى الحالة.

9- على كل طرف أن يبلغ المنظمة بأي حالات يمنح فيها هذا الطرف، عملا بالفقرة 5 (4) من المادة الثالثة، ترخيصا بغض النظر عن الفقرة 5 (1) أو 5 (2) من المادة الثالثة. ويجب أن تشمل هذه المعلومات البيانات ذات الصلة التي تسمح بتحديد سفينة الصيد والمالك أو المشغل وأية معلومات أخرى تتصل بالقرار الذي اتخذته هذا الطرف.

10- على المنظمة أن تعمم على وجه السرعة المعلومات المقدمة بموجب الفقرات 5 و6 و7 و8 و9 من هذه المادة على جميع الأطراف، وأن تقدمها عند الطلب بصفة فردية لكل

طرف. وعلى المنظمة أن تقوم أيضا، مع مراعاة أي قيود تتعلق بالسرية التي يفرضها الطرف المعني على توزيع المعلومات، بتوفير تلك المعلومات على وجه السرعة عند الطلب بصفة فردية لأي منظمة عالمية أو إقليمية أو شبه إقليمية لمصايد الأسماك.

11- على الأطراف أن تتبادل المعلومات المتعلقة بتطبيق هذه الاتفاقية، بما في ذلك عن طريق المنظمة وغيرها من منظمات مصايد الأسماك العالمية والإقليمية وشبه الإقليمية المعنية.

المادة السابعة

التعاون مع البلدان النامية

تتعاون الأطراف، على المستوى العالمي والإقليمي وشبه الإقليمي أو الثنائي، وحيثما يكون مناسباً، بدعم من المنظمة والمنظمات الدولية أو الإقليمية الأخرى، على تقديم المساعدة، بما فيها المساعدة الفنية، إلى الأطراف التي تندرج في عداد البلدان النامية لمساعدتها في الوفاء بالتزاماتها بموجب هذه الاتفاقية.

المادة الثامنة

الجهات غير الأطراف في الاتفاقية

1- على الأطراف في هذه الاتفاقية أن تشجع أي دولة غير طرف فيها على قبول هذه الاتفاقية، وأن تشجع أي جهة غير طرف على سن قوانين ولوائح تتفق مع أحكام هذه الاتفاقية.

2- على الأطراف أن تتعاون بطريقة تتفق مع هذه الاتفاقية ومع القانون الدولي للحيلولة دون قيام سفن الصيد التي يحق لها أن ترفع أعلام جهات غير أطراف بأنشطة تقوض فعالية التدابير الدولية للصيانة والإدارة.

3- على الأطراف أن تتبادل المعلومات فيما بينها، سواء بشكل مباشر أو عن طريق المنظمة، بشأن ما تقوم به سفن الصيد التي ترفع أعلام جهات غير أطراف من أنشطة تقوض فعالية تدابير الصيانة والإدارة الدولية.

المادة التاسعة

تسوية المنازعات

- 1- لأي طرف أن يسعى إلى إجراء مشاورات مع طرف آخر أو أطراف أخرى بشأن أي نزاع يتعلق بتفسير أو تطبيق أحكام هذه الاتفاقية بغية التوصل بأسرع ما يمكن إلى حل مرض لأطراف هذا النزاع.
- 2- في حالة عدم حسم النزاع من خلال هذه المشاورات في غضون فترة زمنية معقولة، على الأطراف المعنية أن تتشاور فيما بينها بأسرع ما يمكن بغية تسوية النزاع عن طريق التفاوض، أو التحقيق، أو الوساطة، أو التوفيق، أو التحكيم، أو التسوية القضائية، أو أي وسيلة سلمية أخرى تختارها.
- 3- أي نزاع من هذا القبيل لا يتسنى حسمه بهذه الصورة يحال، بموافقة أطراف النزاع، على محكمة العدل الدولية أو على المحكمة الدولية لقانون البحار عند سريان اتفاقية الأمم المتحدة لقانون البحار 1982 أو على التحكيم. وفي حالة عدم التوصل إلى اتفاق بشأن إحالة النزاع على محكمة العدل الدولية أو المحكمة الدولية لقانون البحار أو التحكيم، على الأطراف أن تواصل التشاور والتعاون بغية التوصل إلى تسوية النزاع وفقا لقواعد القانون الدولي المتعلقة بصيانة الموارد البحرية الحية.

المادة العاشرة

القبول

- 1- يفتح باب قبول هذه الاتفاقية أمام أي عضو أو عضو منتسب في المنظمة، وأمام أي دولة غير عضو فيها تكون عضوا في الأمم المتحدة أو في أي من وكالات الأمم المتحدة المتخصصة أو في الوكالة الدولية للطاقة الذرية.
- 2- يتم قبول هذه الاتفاقية بإيداع صك القبول لدى المدير العام للمنظمة، الذي سيدعى فيما يلي المدير العام.
- 3- يبلغ المدير العام جميع الأطراف وجميع الدول الأعضاء والأعضاء المنتسبة في المنظمة والأمين العام للأمم المتحدة بكل صكوك القبول المتلقاة.

4- عندما تصبح منظمة إقليمية للتكامل الاقتصادي طرفا في هذه الاتفاقية، تبلغ هذه المنظمة الإقليمية، وفقا للفقرة 7 من المادة 2 من دستور المنظمة على النحو المناسب، عن أية تعديلات أو إيضاحات في إعلان اختصاصاتها المقدم بموجب الفقرة 5 من المادة 2 من دستور المنظمة، قد تكون ضرورية في ضوء قبولها لهذه الاتفاقية. ولأي طرف في هذه الاتفاقية أن يطلب، في أي وقت، من المنظمة الإقليمية للتكامل الاقتصادي الطرف في هذه الاتفاقية تقديم معلومات عما إذا كانت هي أو دولها الأعضاء هي الجهة المسؤولة عن تنفيذ أي مسألة معينة تشملها هذه الاتفاقية. وعلى المنظمة الإقليمية للتكامل الاقتصادي أن تقدم هذه المعلومات في غضون فترة معقولة.

المادة الحادية عشرة

بدء النفاذ

- 1- يبدأ نفاذ هذه الاتفاقية اعتبارا من تاريخ تسلم المدير العام لصك القبول الخامس والعشرين.
- 2- لغرض هذه المادة، لا يحسب الصك المودع من منظمة إقليمية للتكامل الاقتصادي على أنه صك إضافي للصكوك المودعة من جانب الدول الأعضاء في هذه المنظمة.

المادة الثانية عشرة

التحفظات

يجوز أن يخضع قبول هذه الاتفاقية لإبداء التحفظات التي لا تصبح نافذة إلا عند قبولها بالإجماع من كل الأطراف في هذه الاتفاقية. وعلى المدير العام أن يخطر فورا جميع الأطراف بأي تحفظ. وتعتبر الأطراف التي لم ترد في غضون ثلاثة اشهر من تاريخ الإخطار قابلة للتحفظ. فإذا لم يتوافر هذا القبول لا تصبح الدولة أو المنظمة الإقليمية للتكامل الاقتصادي طرفا في هذه الاتفاقية.

المادة الثالثة عشرة

التعديلات

- 1- يبلغ المدير العام بأي اقتراح يقدمه طرف لتعديل هذه الاتفاقية.
- 2- يعرض أي تعديل مقترح لهذه الاتفاقية يتلقاه المدير العام من أحد الأطراف على دورة عادية أو غير عادية لمؤتمر المنظمة للموافقة عليه ، وإذا كان التعديل ينطوي على تغييرات فنية هامة أو يفرض التزامات إضافية على الأطراف تنظر فيه لجنة استشارية من الأخصائيين تعدها المنظمة قبل المؤتمر.
- 3- يحيل المدير العام الإخطار بأي تعديل مقترح لهذه الاتفاقية على الأطراف في وقت لا يتجاوز موعد إرسال جدول أعمال دورة المؤتمر التي سينظر الموضوع فيها.
- 4- يتطلب أي تعديل مقترح لهذه الاتفاقية موافقة مؤتمر المنظمة ، ويدخل حيز النفاذ اعتبارا من اليوم الثلاثين من قبوله من جانب ثلثي الأطراف. أما التعديلات التي تنطوي على التزامات جديدة للأطراف فلا تدخل حيز النفاذ إلا إزاء كل طرف يقبلها واعتبارا من اليوم الثلاثين لهذا القبول. ويعتبر أي تعديل منطويا على التزامات جديدة بالنسبة للأطراف ما لم يقرر مؤتمر المنظمة خلاف ذلك بتوافق الآراء ، لدى موافقته على التعديل.
- 5- تودع صكوك قبول التعديلات التي تنطوي على التزامات جديدة لدى المدير العام الذي يبلغ جميع الأطراف بتسلم قبول التعديلات وبدء نفاذها.
- 6- لأغراض هذه المادة، لا يعتبر الصك المودع من منظمة إقليمية للتكامل الاقتصادي صكا إضافيا للصك المودعة من جانب الدول الأعضاء في هذه المنظمة.

المادة الرابعة عشرة

الانسحاب

لأي طرف أن ينسحب من هذه الاتفاقية في أي وقت يشاء، بعد انقضاء سنتين من تاريخ بدء نفاذ الاتفاقية بالنسبة لذلك الطرف، بإخطار كتابي بهذا الانسحاب يوجهه إلى المدير العام الذي عليه أن يبلغ بدوره على الفور جميع الأطراف وكل الدول الأعضاء والأعضاء المنتسبة في المنظمة بهذا الانسحاب. ويصبح الانسحاب نافذا

في نهاية السنة التقييمية التالية للسنة التقييمية التي يتسلم فيها المدير العام الإخطار بالانسحاب.

المادة الخامسة عشرة

واجبات جهة الإيداع

يكون المدير العام جهة الإيداع لهذه الاتفاقية. وعلى جهة الإيداع أن تقوم بما يلي :

- (أ) إرسال نسخ مصدقة من هذه الاتفاقية إلى كل عضو وعضو منتسب في المنظمة وإلى أي دول غير أعضاء تصبح أطرافاً في هذه الاتفاقية؛
- (ب) اتخاذ الترتيبات اللازمة لتسجيل هذه الاتفاقية، عند دخولها حيز النفاذ، لدى الأمانة العامة للأمم المتحدة وفقاً للمادة 102 من ميثاق الأمم المتحدة؛
- (ج) إبلاغ كل عضو وعضو منتسب في المنظمة، وأي دول غير أعضاء تصبح أطرافاً في هذه الاتفاقية بما يلي :
 - (1) صكوك القبول المودعة وفقاً للمادة العاشرة؛
 - (2) تاريخ بدء نفاذ هذه الاتفاقية وفقاً للمادة الحادية عشرة؛
 - (3) اقتراح أي تعديلات على هذه الاتفاقية طبقاً للمادة الثالثة عشرة وتاريخ نفاذ مثل هذه التعديلات؛
 - (4) الإبلاغ عن أي انسحاب من هذه الاتفاقية بمقتضى المادة الرابعة عشرة.

المادة السادسة عشرة

حجة النصوص

النصوص العربية والصينية والإنكليزية والفرنسية والأسبانية لهذه الاتفاقية متساوية في الحجية.



General Assembly

Distr.
GENERAL

A/RES/48/263
17 August 1994

Forty-eighth session
Agenda item 36

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[without reference to a Main Committee (A/48/L.60 and Add.1)]

48/263. Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

The General Assembly,

Prompted by the desire to achieve universal participation in the United Nations Convention on the Law of the Sea of 10 December 1982 1/ (hereinafter referred to as the "Convention") and to promote appropriate representation in the institutions established by it,

Reaffirming that the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the "Area"), as well as the resources of the Area, are the common heritage of mankind, 2/

Recalling that the Convention in its Part XI and related provisions (hereinafter referred to as "Part XI") established a regime for the Area and its resources,

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

2/ General Assembly resolution 2749 (XXV) of 17 December 1970; article 136 of the United Nations Convention on the Law of the Sea.

Taking note of the consolidated provisional final report of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, 3/

Recalling its resolution 48/28 of 9 December 1993 on the law of the sea,

Recognizing that political and economic changes, including in particular a growing reliance on market principles, have necessitated the re-evaluation of some aspects of the regime for the Area and its resources,

Noting the initiative of the Secretary-General which began in 1990 to promote dialogue aimed at achieving universal participation in the Convention,

Welcoming the report of the Secretary-General on the outcome of his informal consultations, 4/ including the draft of an agreement relating to the implementation of Part XI,

Considering that the objective of universal participation in the Convention may best be achieved by the adoption of an agreement relating to the implementation of Part XI,

Recognizing the need to provide for the provisional application of such an agreement from the date of entry into force of the Convention on 16 November 1994,

1. Expresses its appreciation to the Secretary-General for his report on the informal consultations;
2. Reaffirms the unified character of the United Nations Convention on the Law of the Sea of 10 December 1982;
3. Adopts the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as the "Agreement"), the text of which is annexed to the present resolution;
4. Affirms that the Agreement shall be interpreted and applied together with Part XI as a single instrument;
5. Considers that future ratifications or formal confirmations of or accessions to the Convention shall represent also consent to be bound by the Agreement and that no State or entity may establish its consent to be bound by the Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention;
6. Calls upon States which consent to the adoption of the Agreement to refrain from any act which would defeat its object and purpose;
7. Expresses its satisfaction at the entry into force of the Convention on 16 November 1994;

3/ Documents LOS/PCN/130 and Add.1.

4/ A/48/950.

8. Decides to fund the administrative expenses of the International Seabed Authority in accordance with section 1, paragraph 14, of the Annex to the Agreement;

9. Requests the Secretary-General to transmit immediately certified copies of the Agreement to the States and entities referred to in article 3 thereof, with a view to facilitating universal participation in the Convention and the Agreement, and to draw attention to articles 4 and 5 of the Agreement;

10. Also requests the Secretary-General immediately to open the Agreement for signature in accordance with article 3 thereof;

11. Urges all States and entities referred to in article 3 of the Agreement to consent to its provisional application as from 16 November 1994 and to establish their consent to be bound by the Agreement at the earliest possible date;

12. Also urges all such States and entities that have not already done so to take all appropriate steps to ratify, formally confirm or accede to the Convention at the earliest possible date in order to ensure universal participation in the Convention;

13. Calls upon the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea to take into account the terms of the Agreement when drawing up its final report.

101st plenary meeting
28 July 1994

ANNEX

AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982

The States Parties to this Agreement,

Recognizing the important contribution of the United Nations Convention on the Law of the Sea of 10 December 1982 1/ (hereinafter referred to as "the Convention") to the maintenance of peace, justice and progress for all peoples of the world,

Reaffirming that the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as "the Area"), as well as the resources of the Area, are the common heritage of mankind,

Mindful of the importance of the Convention for the protection and preservation of the marine environment and of the growing concern for the global environment,

Having considered the report of the Secretary-General of the United Nations on the results of the informal consultations among States held from 1990 to 1994 on outstanding issues relating to Part XI and related provisions of the Convention 4/ (hereinafter referred to as "Part XI"),

/...

Noting the political and economic changes, including market-oriented approaches, affecting the implementation of Part XI,

Wishing to facilitate universal participation in the Convention,

Considering that an agreement relating to the implementation of Part XI would best meet that objective,

Have agreed as follows:

Article 1

Implementation of Part XI

1. The States Parties to this Agreement undertake to implement Part XI in accordance with this Agreement.
2. The Annex forms an integral part of this Agreement.

Article 2

Relationship between this Agreement and Part XI

1. The provisions of this Agreement and Part XI shall be interpreted and applied together as a single instrument. In the event of any inconsistency between this Agreement and Part XI, the provisions of this Agreement shall prevail.
2. Articles 309 to 319 of the Convention shall apply to this Agreement as they apply to the Convention.

Article 3

Signature

This Agreement shall remain open for signature at United Nations Headquarters by the States and entities referred to in article 305, paragraph 1 (a), (c), (d), (e) and (f), of the Convention for 12 months from the date of its adoption.

Article 4

Consent to be bound

1. After the adoption of this Agreement, any instrument of ratification or formal confirmation of or accession to the Convention shall also represent consent to be bound by this Agreement.
2. No State or entity may establish its consent to be bound by this Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention.

/...

3. A State or entity referred to in article 3 may express its consent to be bound by this Agreement by:

(a) Signature not subject to ratification, formal confirmation or the procedure set out in article 5;

(b) Signature subject to ratification or formal confirmation, followed by ratification or formal confirmation;

(c) Signature subject to the procedure set out in article 5; or

(d) Accession.

4. Formal confirmation by the entities referred to in article 305, paragraph 1 (f), of the Convention shall be in accordance with Annex IX of the Convention.

5. The instruments of ratification, formal confirmation or accession shall be deposited with the Secretary-General of the United Nations.

Article 5

Simplified procedure

1. A State or entity which has deposited before the date of the adoption of this Agreement an instrument of ratification or formal confirmation of or accession to the Convention and which has signed this Agreement in accordance with article 4, paragraph 3 (c), shall be considered to have established its consent to be bound by this Agreement 12 months after the date of its adoption, unless that State or entity notifies the depositary in writing before that date that it is not availing itself of the simplified procedure set out in this article.

2. In the event of such notification, consent to be bound by this Agreement shall be established in accordance with article 4, paragraph 3 (b).

Article 6

Entry into force

1. This Agreement shall enter into force 30 days after the date on which 40 States have established their consent to be bound in accordance with articles 4 and 5, provided that such States include at least seven of the States referred to in paragraph 1 (a) of resolution II of the Third United Nations Conference on the Law of the Sea ^{5/} (hereinafter referred to as "resolution II") and that at least five of those States are developed States. If these conditions for entry into force are fulfilled before 16 November 1994, this Agreement shall enter into force on 16 November 1994.

^{5/} Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/121, annex I.

2. For each State or entity establishing its consent to be bound by this Agreement after the requirements set out in paragraph 1 have been fulfilled, this Agreement shall enter into force on the thirtieth day following the date of establishment of its consent to be bound.

Article 7

Provisional application

1. If on 16 November 1994 this Agreement has not entered into force, it shall be applied provisionally pending its entry into force by:

(a) States which have consented to its adoption in the General Assembly of the United Nations, except any such State which before 16 November 1994 notifies the depositary in writing either that it will not so apply this Agreement or that it will consent to such application only upon subsequent signature or notification in writing;

(b) States and entities which sign this Agreement, except any such State or entity which notifies the depositary in writing at the time of signature that it will not so apply this Agreement;

(c) States and entities which consent to its provisional application by so notifying the depositary in writing;

(d) States which accede to this Agreement.

2. All such States and entities shall apply this Agreement provisionally in accordance with their national or internal laws and regulations, with effect from 16 November 1994 or the date of signature, notification of consent or accession, if later.

3. Provisional application shall terminate upon the date of entry into force of this Agreement. In any event, provisional application shall terminate on 16 November 1998 if at that date the requirement in article 6, paragraph 1, of consent to be bound by this Agreement by at least seven of the States (of which at least five must be developed States) referred to in paragraph 1 (a) of resolution II has not been fulfilled.

Article 8

States Parties

1. For the purposes of this Agreement, "States Parties" means States which have consented to be bound by this Agreement and for which this Agreement is in force.

2. This Agreement applies mutatis mutandis to the entities referred to in article 305, paragraph 1 (c), (d), (e) and (f), of the Convention which become Parties to this Agreement in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

Article 9

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement.

Article 10

Authentic texts

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

DONE AT NEW YORK, this ... day of July, one thousand nine hundred and ninety-four.

Annex

SECTION 1. COSTS TO STATES PARTIES AND INSTITUTIONAL ARRANGEMENTS

1. The International Seabed Authority (hereinafter referred to as "the Authority") is the organization through which States Parties to the Convention shall, in accordance with the regime for the Area established in Part XI and this Agreement, organize and control activities in the Area, particularly with a view to administering the resources of the Area. The powers and functions of the Authority shall be those expressly conferred upon it by the Convention. The Authority shall have such incidental powers, consistent with the Convention, as are implicit in, and necessary for, the exercise of those powers and functions with respect to activities in the Area.

2. In order to minimize costs to States Parties, all organs and subsidiary bodies to be established under the Convention and this Agreement shall be cost-effective. This principle shall also apply to the frequency, duration and scheduling of meetings.

3. The setting up and the functioning of the organs and subsidiary bodies of the Authority shall be based on an evolutionary approach, taking into account the functional needs of the organs and subsidiary bodies concerned in order that they may discharge effectively their respective responsibilities at various stages of the development of activities in the Area.

/...

4. The early functions of the Authority upon entry into force of the Convention shall be carried out by the Assembly, the Council, the Secretariat, the Legal and Technical Commission and the Finance Committee. The functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation.

5. Between the entry into force of the Convention and the approval of the first plan of work for exploitation, the Authority shall concentrate on:

(a) Processing of applications for approval of plans of work for exploration in accordance with Part XI and this Agreement;

(b) Implementation of decisions of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (hereinafter referred to as "the Preparatory Commission") relating to the registered pioneer investors and their certifying States, including their rights and obligations, in accordance with article 308, paragraph 5, of the Convention and resolution II, paragraph 13;

(c) Monitoring of compliance with plans of work for exploration approved in the form of contracts;

(d) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(e) Study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals which are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission;

(f) Adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress. Notwithstanding the provisions of Annex III, article 17, paragraph 2 (b) and (c), of the Convention, such rules, regulations and procedures shall take into account the terms of this Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;

(g) Adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment;

(h) Promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research related to the environmental impact of activities in the Area;

(i) Acquisition of scientific knowledge and monitoring of the development of marine technology relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(j) Assessment of available data relating to prospecting and exploration;

(k) Timely elaboration of rules, regulations and procedures for exploitation, including those relating to the protection and preservation of the marine environment.

6. (a) An application for approval of a plan of work for exploration shall be considered by the Council following the receipt of a recommendation on the application from the Legal and Technical Commission. The processing of an application for approval of a plan of work for exploration shall be in accordance with the provisions of the Convention, including Annex III thereof, and this Agreement, and subject to the following:

- (i) A plan of work for exploration submitted on behalf of a State or entity, or any component of such entity, referred to in resolution II, paragraph 1 (a) (ii) or (iii), other than a registered pioneer investor, which had already undertaken substantial activities in the Area prior to the entry into force of the Convention, or its successor in interest, shall be considered to have met the financial and technical qualifications necessary for approval of a plan of work if the sponsoring State or States certify that the applicant has expended an amount equivalent to at least US\$ 30 million in research and exploration activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in the plan of work. If the plan of work otherwise satisfies the requirements of the Convention and any rules, regulations and procedures adopted pursuant thereto, it shall be approved by the Council in the form of a contract. The provisions of section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;
- (ii) Notwithstanding the provisions of resolution II, paragraph 8 (a), a registered pioneer investor may request approval of a plan of work for exploration within 36 months of the entry into force of the Convention. The plan of work for exploration shall consist of documents, reports and other data submitted to the Preparatory Commission both before and after registration and shall be accompanied by a certificate of compliance, consisting of a factual report describing the status of fulfilment of obligations under the pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II, paragraph 11 (a). Such a plan of work shall be considered to be approved. Such an approved plan of work shall be in the form of a contract concluded between the Authority and the registered pioneer investor in accordance with Part XI and this Agreement. The fee of US\$ 250,000 paid pursuant to resolution II, paragraph 7 (a), shall be deemed to be the fee relating to the exploration phase pursuant to section 8, paragraph 3, of this Annex. Section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;
- (iii) In accordance with the principle of non-discrimination, a contract with a State or entity or any component of such entity referred to in subparagraph (a) (i) shall include arrangements which shall be similar to and no less favourable than those agreed with any registered pioneer investor referred to in subparagraph (a) (ii).

/...

If any of the States or entities or any components of such entities referred to in subparagraph (a) (i) are granted more favourable arrangements, the Council shall make similar and no less favourable arrangements with regard to the rights and obligations assumed by the registered pioneer investors referred to in subparagraph (a) (ii), provided that such arrangements do not affect or prejudice the interests of the Authority;

- (iv) A State sponsoring an application for a plan of work pursuant to the provisions of subparagraph (a) (i) or (ii) may be a State Party or a State which is applying this Agreement provisionally in accordance with article 7, or a State which is a member of the Authority on a provisional basis in accordance with paragraph 12;
- (v) Resolution II, paragraph 8 (c), shall be interpreted and applied in accordance with subparagraph (a) (iv).

(b) The approval of a plan of work for exploration shall be in accordance with article 153, paragraph 3, of the Convention.

7. An application for approval of a plan of work shall be accompanied by an assessment of the potential environmental impacts of the proposed activities and by a description of a programme for oceanographic and baseline environmental studies in accordance with the rules, regulations and procedures adopted by the Authority.

8. An application for approval of a plan of work for exploration, subject to paragraph 6 (a) (i) or (ii), shall be processed in accordance with the procedures set out in section 3, paragraph 11, of this Annex.

9. A plan of work for exploration shall be approved for a period of 15 years. Upon the expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so or has obtained an extension for the plan of work for exploration. Contractors may apply for such extensions for periods of not more than five years each. Such extensions shall be approved if the contractor has made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

10. Designation of a reserved area for the Authority in accordance with Annex III, article 8, of the Convention shall take place in connection with approval of an application for a plan of work for exploration or approval of an application for a plan of work for exploration and exploitation.

11. Notwithstanding the provisions of paragraph 9, an approved plan of work for exploration which is sponsored by at least one State provisionally applying this Agreement shall terminate if such a State ceases to apply this Agreement provisionally and has not become a member on a provisional basis in accordance with paragraph 12 or has not become a State Party.

12. Upon the entry into force of this Agreement, States and entities referred to in article 3 of this Agreement which have been applying it provisionally in accordance with article 7 and for which it is not in force may continue to be members of the Authority on a provisional basis pending its entry into force for such States and entities, in accordance with the following subparagraphs:

(a) If this Agreement enters into force before 16 November 1996, such States and entities shall be entitled to continue to participate as members of the Authority on a provisional basis upon notification to the depositary of the Agreement by such a State or entity of its intention to participate as a member on a provisional basis. Such membership shall terminate either on 16 November 1996 or upon the entry into force of this Agreement and the Convention for such member, whichever is earlier. The Council may, upon the request of the State or entity concerned, extend such membership beyond 16 November 1996 for a further period or periods not exceeding a total of two years provided that the Council is satisfied that the State or entity concerned has been making efforts in good faith to become a party to the Agreement and the Convention;

(b) If this Agreement enters into force after 15 November 1996, such States and entities may request the Council to grant continued membership in the Authority on a provisional basis for a period or periods not extending beyond 16 November 1998. The Council shall grant such membership with effect from the date of the request if it is satisfied that the State or entity has been making efforts in good faith to become a party to the Agreement and the Convention;

(c) States and entities which are members of the Authority on a provisional basis in accordance with subparagraph (a) or (b) shall apply the terms of Part XI and this Agreement in accordance with their national or internal laws, regulations and annual budgetary appropriations and shall have the same rights and obligations as other members, including:

(i) The obligation to contribute to the administrative budget of the Authority in accordance with the scale of assessed contributions;

(ii) The right to sponsor an application for approval of a plan of work for exploration. In the case of entities whose components are natural or juridical persons possessing the nationality of more than one State, a plan of work for exploration shall not be approved unless all the States whose natural or juridical persons comprise those entities are States Parties or members on a provisional basis;

(d) Notwithstanding the provisions of paragraph 9, an approved plan of work in the form of a contract for exploration which was sponsored pursuant to subparagraph (c) (ii) by a State which was a member on a provisional basis shall terminate if such membership ceases and the State or entity has not become a State Party;

(e) If such a member has failed to make its assessed contributions or otherwise failed to comply with its obligations in accordance with this paragraph, its membership on a provisional basis shall be terminated.

/...

13. The reference in Annex III, article 10, of the Convention to performance which has not been satisfactory shall be interpreted to mean that the contractor has failed to comply with the requirements of an approved plan of work in spite of a written warning or warnings from the Authority to the contractor to comply therewith.

14. The Authority shall have its own budget. Until the end of the year following the year during which this Agreement enters into force, the administrative expenses of the Authority shall be met through the budget of the United Nations. Thereafter, the administrative expenses of the Authority shall be met by assessed contributions of its members, including any members on a provisional basis, in accordance with articles 171, subparagraph (a), and 173 of the Convention and this Agreement, until the Authority has sufficient funds from other sources to meet those expenses. The Authority shall not exercise the power referred to in article 174, paragraph 1, of the Convention to borrow funds to finance its administrative budget.

15. The Authority shall elaborate and adopt, in accordance with article 162, paragraph 2 (o) (ii), of the Convention, rules, regulations and procedures based on the principles contained in sections 2, 5, 6, 7 and 8 of this Annex, as well as any additional rules, regulations and procedures necessary to facilitate the approval of plans of work for exploration or exploitation, in accordance with the following subparagraphs:

(a) The Council may undertake such elaboration any time it deems that all or any of such rules, regulations or procedures are required for the conduct of activities in the Area, or when it determines that commercial exploitation is imminent, or at the request of a State whose national intends to apply for approval of a plan of work for exploitation;

(b) If a request is made by a State referred to in subparagraph (a) the Council shall, in accordance with article 162, paragraph 2 (o), of the Convention, complete the adoption of such rules, regulations and procedures within two years of the request;

(c) If the Council has not completed the elaboration of the rules, regulations and procedures relating to exploitation within the prescribed time and an application for approval of a plan of work for exploitation is pending, it shall none the less consider and provisionally approve such plan of work based on the provisions of the Convention and any rules, regulations and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors.

16. The draft rules, regulations and procedures and any recommendations relating to the provisions of Part XI, as contained in the reports and recommendations of the Preparatory Commission, shall be taken into account by the Authority in the adoption of rules, regulations and procedures in accordance with Part XI and this Agreement.

17. The relevant provisions of Part XI, section 4, of the Convention shall be interpreted and applied in accordance with this Agreement.

SECTION 2. THE ENTERPRISE

1. The Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. The Secretary-General of the Authority shall appoint from within the staff of the Authority an interim Director-General to oversee the performance of these functions by the Secretariat.

These functions shall be:

(a) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(b) Assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;

(c) Assessment of available data relating to prospecting and exploration, including the criteria for such activities;

(d) Assessment of technological developments relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(e) Evaluation of information and data relating to areas reserved for the Authority;

(f) Assessment of approaches to joint-venture operations;

(g) Collection of information on the availability of trained manpower;

(h) Study of managerial policy options for the administration of the Enterprise at different stages of its operations.

2. The Enterprise shall conduct its initial deep seabed mining operations through joint ventures. Upon the approval of a plan of work for exploitation for an entity other than the Enterprise, or upon receipt by the Council of an application for a joint-venture operation with the Enterprise, the Council shall take up the issue of the functioning of the Enterprise independently of the Secretariat of the Authority. If joint-venture operations with the Enterprise accord with sound commercial principles, the Council shall issue a directive pursuant to article 170, paragraph 2, of the Convention providing for such independent functioning.

3. The obligation of States Parties to fund one mine site of the Enterprise as provided for in Annex IV, article 11, paragraph 3, of the Convention shall not apply and States Parties shall be under no obligation to finance any of the operations in any mine site of the Enterprise or under its joint-venture arrangements.

/...

4. The obligations applicable to contractors shall apply to the Enterprise. Notwithstanding the provisions of article 153, paragraph 3, and Annex III, article 3, paragraph 5, of the Convention, a plan of work for the Enterprise upon its approval shall be in the form of a contract concluded between the Authority and the Enterprise.

5. A contractor which has contributed a particular area to the Authority as a reserved area has the right of first refusal to enter into a joint-venture arrangement with the Enterprise for exploration and exploitation of that area. If the Enterprise does not submit an application for a plan of work for activities in respect of such a reserved area within 15 years of the commencement of its functions independent of the Secretariat of the Authority or within 15 years of the date on which that area is reserved for the Authority, whichever is the later, the contractor which contributed the area shall be entitled to apply for a plan of work for that area provided it offers in good faith to include the Enterprise as a joint-venture partner.

6. Article 170, paragraph 4, Annex IV and other provisions of the Convention relating to the Enterprise shall be interpreted and applied in accordance with this section.

SECTION 3. DECISION-MAKING

1. The general policies of the Authority shall be established by the Assembly in collaboration with the Council.

2. As a general rule, decision-making in the organs of the Authority should be by consensus.

3. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Assembly on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance shall be taken by a two-thirds majority of members present and voting, as provided for in article 159, paragraph 8, of the Convention.

4. Decisions of the Assembly on any matter for which the Council also has competence or on any administrative, budgetary or financial matter shall be based on the recommendations of the Council. If the Assembly does not accept the recommendation of the Council on any matter, it shall return the matter to the Council for further consideration. The Council shall reconsider the matter in the light of the views expressed by the Assembly.

5. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Council on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance, except where the Convention provides for decisions by consensus in the Council, shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in paragraph 9. In taking decisions the Council shall seek to promote the interests of all the members of the Authority.

6. The Council may defer the taking of a decision in order to facilitate further negotiation whenever it appears that all efforts at achieving consensus on a question have not been exhausted.

/...

7. Decisions by the Assembly or the Council having financial or budgetary implications shall be based on the recommendations of the Finance Committee.

8. The provisions of article 161, paragraph 8 (b) and (c), of the Convention shall not apply.

9. (a) Each group of States elected under paragraph 15 (a) to (c) shall be treated as a chamber for the purposes of voting in the Council. The developing States elected under paragraph 15 (d) and (e) shall be treated as a single chamber for the purposes of voting in the Council.

(b) Before electing the members of the Council, the Assembly shall establish lists of countries fulfilling the criteria for membership in the groups of States in paragraph 15 (a) to (d). If a State fulfils the criteria for membership in more than one group, it may only be proposed by one group for election to the Council and it shall represent only that group in voting in the Council.

10. Each group of States in paragraph 15 (a) to (d) shall be represented in the Council by those members nominated by that group. Each group shall nominate only as many candidates as the number of seats required to be filled by that group. When the number of potential candidates in each of the groups referred to in paragraph 15 (a) to (e) exceeds the number of seats available in each of those respective groups, as a general rule, the principle of rotation shall apply. States members of each of those groups shall determine how this principle shall apply in those groups.

11. (a) The Council shall approve a recommendation by the Legal and Technical Commission for approval of a plan of work unless by a two-thirds majority of its members present and voting, including a majority of members present and voting in each of the chambers of the Council, the Council decides to disapprove a plan of work. If the Council does not take a decision on a recommendation for approval of a plan of work within a prescribed period, the recommendation shall be deemed to have been approved by the Council at the end of that period. The prescribed period shall normally be 60 days unless the Council decides to provide for a longer period. If the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may nevertheless approve the plan of work in accordance with its rules of procedure for decision-making on questions of substance.

(b) The provisions of article 162, paragraph 2 (j), of the Convention shall not apply.

12. Where a dispute arises relating to the disapproval of a plan of work, such dispute shall be submitted to the dispute settlement procedures set out in the Convention.

13. Decisions by voting in the Legal and Technical Commission shall be by a majority of members present and voting.

14. Part XI, section 4, subsections B and C, of the Convention shall be interpreted and applied in accordance with this section.

15. The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:

(a) Four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent in value terms of total world consumption or have had net imports of more than 2 per cent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the Area, provided that the four members shall include one State from the Eastern European region having the largest economy in that region in terms of gross domestic product and the State, on the date of entry into force of the Convention, having the largest economy in terms of gross domestic product, if such States wish to be represented in this group;

(b) Four members from among the eight States Parties which have made the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals;

(c) Four members from among States Parties which, on the basis of production in areas under their jurisdiction, are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;

(d) Six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, island States, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals and least developed States;

(e) Eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern Europe, Latin America and the Caribbean and Western Europe and Others.

16. The provisions of article 161, paragraph 1, of the Convention shall not apply.

SECTION 4. REVIEW CONFERENCE

The provisions relating to the Review Conference in article 155, paragraphs 1, 3 and 4, of the Convention shall not apply. Notwithstanding the provisions of article 314, paragraph 2, of the Convention, the Assembly, on the recommendation of the Council, may undertake at any time a review of the matters referred to in article 155, paragraph 1, of the Convention. Amendments relating to this Agreement and Part XI shall be subject to the procedures contained in articles 314, 315 and 316 of the Convention, provided that the principles, regime and other terms referred to in article 155, paragraph 2, of the Convention shall be maintained and the rights referred to in paragraph 5 of that article shall not be affected.

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SECTION 5. TRANSFER OF TECHNOLOGY

1. In addition to the provisions of article 144 of the Convention, transfer of technology for the purposes of Part XI shall be governed by the following principles:

(a) The Enterprise, and developing States wishing to obtain deep seabed mining technology, shall seek to obtain such technology on fair and reasonable commercial terms and conditions on the open market, or through joint-venture arrangements;

(b) If the Enterprise or developing States are unable to obtain deep seabed mining technology, the Authority may request all or any of the contractors and their respective sponsoring State or States to cooperate with it in facilitating the acquisition of deep seabed mining technology by the Enterprise or its joint venture, or by a developing State or States seeking to acquire such technology on fair and reasonable commercial terms and conditions, consistent with the effective protection of intellectual property rights. States Parties undertake to cooperate fully and effectively with the Authority for this purpose and to ensure that contractors sponsored by them also cooperate fully with the Authority;

(c) As a general rule, States Parties shall promote international technical and scientific cooperation with regard to activities in the Area either between the parties concerned or by developing training, technical assistance and scientific cooperation programmes in marine science and technology and the protection and preservation of the marine environment.

2. The provisions of Annex III, article 5, of the Convention shall not apply.

SECTION 6. PRODUCTION POLICY

1. The production policy of the Authority shall be based on the following principles:

(a) Development of the resources of the Area shall take place in accordance with sound commercial principles;

(b) The provisions of the General Agreement on Tariffs and Trade, its relevant codes and successor or superseding agreements shall apply with respect to activities in the Area;

(c) In particular, there shall be no subsidization of activities in the Area except as may be permitted under the agreements referred to in subparagraph (b). Subsidization for the purpose of these principles shall be defined in terms of the agreements referred to in subparagraph (b);

(d) There shall be no discrimination between minerals derived from the Area and from other sources. There shall be no preferential access to markets for such minerals or for imports of commodities produced from such minerals, in particular:

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- (i) By the use of tariff or non-tariff barriers; and
- (ii) Given by States Parties to such minerals or commodities produced by their state enterprises or by natural or juridical persons which possess their nationality or are controlled by them or their nationals;

(e) The plan of work for exploitation approved by the Authority in respect of each mining area shall indicate an anticipated production schedule which shall include the estimated maximum amounts of minerals that would be produced per year under the plan of work;

(f) The following shall apply to the settlement of disputes concerning the provisions of the agreements referred to in subparagraph (b):

- (i) Where the States Parties concerned are parties to such agreements, they shall have recourse to the dispute settlement procedures of those agreements;
- (ii) Where one or more of the States Parties concerned are not parties to such agreements, they shall have recourse to the dispute settlement procedures set out in the Convention;

(g) In circumstances where a determination is made under the agreements referred to in subparagraph (b) that a State Party has engaged in subsidization which is prohibited or has resulted in adverse effects on the interests of another State Party and appropriate steps have not been taken by the relevant State Party or States Parties, a State Party may request the Council to take appropriate measures.

2. The principles contained in paragraph 1 shall not affect the rights and obligations under any provision of the agreements referred to in paragraph 1 (b), as well as the relevant free trade and customs union agreements, in relations between States Parties which are parties to such agreements.

3. The acceptance by a contractor of subsidies other than those which may be permitted under the agreements referred to in paragraph 1 (b) shall constitute a violation of the fundamental terms of the contract forming a plan of work for the carrying out of activities in the Area.

4. Any State Party which has reason to believe that there has been a breach of the requirements of paragraphs 1 (b) to (d) or 3 may initiate dispute settlement procedures in conformity with paragraph 1 (f) or (g).

5. A State Party may at any time bring to the attention of the Council activities which in its view are inconsistent with the requirements of paragraph 1 (b) to (d).

6. The Authority shall develop rules, regulations and procedures which ensure the implementation of the provisions of this section, including relevant rules, regulations and procedures governing the approval of plans of work.

7. The provisions of article 151, paragraphs 1 to 7 and 9, article 162, paragraph 2 (q), article 165, paragraph 2 (n), and Annex III, article 6, paragraph 5, and article 7, of the Convention shall not apply.

SECTION 7. ECONOMIC ASSISTANCE

1. The policy of the Authority of assisting developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, shall be based on the following principles:

(a) The Authority shall establish an economic assistance fund from a portion of the funds of the Authority which exceeds those necessary to cover the administrative expenses of the Authority. The amount set aside for this purpose shall be determined by the Council from time to time, upon the recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be used for the establishment of the economic assistance fund;

(b) Developing land-based producer States whose economies have been determined to be seriously affected by the production of minerals from the deep seabed shall be assisted from the economic assistance fund of the Authority;

(c) The Authority shall provide assistance from the fund to affected developing land-based producer States, where appropriate, in cooperation with existing global or regional development institutions which have the infrastructure and expertise to carry out such assistance programmes;

(d) The extent and period of such assistance shall be determined on a case-by-case basis. In doing so, due consideration shall be given to the nature and magnitude of the problems encountered by affected developing land-based producer States.

2. Article 151, paragraph 10, of the Convention shall be implemented by means of measures of economic assistance referred to in paragraph 1. Article 160, paragraph 2 (l), article 162, paragraph 2 (n), article 164, paragraph 2 (d), article 171, subparagraph (f), and article 173, paragraph 2 (c), of the Convention shall be interpreted accordingly.

SECTION 8. FINANCIAL TERMS OF CONTRACTS

1. The following principles shall provide the basis for establishing rules, regulations and procedures for financial terms of contracts:

(a) The system of payments to the Authority shall be fair both to the contractor and to the Authority and shall provide adequate means of determining compliance by the contractor with such system;

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(b) The rates of payments under the system shall be within the range of those prevailing in respect of land-based mining of the same or similar minerals in order to avoid giving deep seabed miners an artificial competitive advantage or imposing on them a competitive disadvantage;

(c) The system should not be complicated and should not impose major administrative costs on the Authority or on a contractor. Consideration should be given to the adoption of a royalty system or a combination of a royalty and profit-sharing system. If alternative systems are decided upon, the contractor has the right to choose the system applicable to its contract. Any subsequent change in choice between alternative systems, however, shall be made by agreement between the Authority and the contractor;

(d) An annual fixed fee shall be payable from the date of commencement of commercial production. This fee may be credited against other payments due under the system adopted in accordance with subparagraph (c). The amount of the fee shall be established by the Council;

(e) The system of payments may be revised periodically in the light of changing circumstances. Any changes shall be applied in a non-discriminatory manner. Such changes may apply to existing contracts only at the election of the contractor. Any subsequent change in choice between alternative systems shall be made by agreement between the Authority and the contractor;

(f) Disputes concerning the interpretation or application of the rules and regulations based on these principles shall be subject to the dispute settlement procedures set out in the Convention.

2. The provisions of Annex III, article 13, paragraphs 3 to 10, of the Convention shall not apply.

3. With regard to the implementation of Annex III, article 13, paragraph 2, of the Convention, the fee for processing applications for approval of a plan of work limited to one phase, either the exploration phase or the exploitation phase, shall be US\$ 250,000.

SECTION 9. THE FINANCE COMMITTEE

1. There is hereby established a Finance Committee. The Committee shall be composed of 15 members with appropriate qualifications relevant to financial matters. States Parties shall nominate candidates of the highest standards of competence and integrity.

2. No two members of the Finance Committee shall be nationals of the same State Party.

3. Members of the Finance Committee shall be elected by the Assembly and due account shall be taken of the need for equitable geographical distribution and the representation of special interests. Each group of States referred to in section 3, paragraph 15 (a), (b), (c) and (d), of this Annex shall be represented on the Committee by at least one member. Until the Authority has sufficient funds other than assessed contributions to meet its administrative expenses, the membership of the Committee shall include representatives of the five largest financial contributors to the administrative budget of the

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Authority. Thereafter, the election of one member from each group shall be on the basis of nomination by the members of the respective group, without prejudice to the possibility of further members being elected from each group.

4. Members of the Finance Committee shall hold office for a term of five years. They shall be eligible for re-election for a further term.

5. In the event of the death, incapacity or resignation of a member of the Finance Committee prior to the expiration of the term of office, the Assembly shall elect for the remainder of the term a member from the same geographical region or group of States.

6. Members of the Finance Committee shall have no financial interest in any activity relating to matters upon which the Committee has the responsibility to make recommendations. They shall not disclose, even after the termination of their functions, any confidential information coming to their knowledge by reason of their duties for the Authority.

7. Decisions by the Assembly and the Council on the following issues shall take into account recommendations of the Finance Committee:

(a) Draft financial rules, regulations and procedures of the organs of the Authority and the financial management and internal financial administration of the Authority;

(b) Assessment of contributions of members to the administrative budget of the Authority in accordance with article 160, paragraph 2 (e), of the Convention;

(c) All relevant financial matters, including the proposed annual budget prepared by the Secretary-General of the Authority in accordance with article 172 of the Convention and the financial aspects of the implementation of the programmes of work of the Secretariat;

(d) The administrative budget;

(e) Financial obligations of States Parties arising from the implementation of this Agreement and Part XI as well as the administrative and budgetary implications of proposals and recommendations involving expenditure from the funds of the Authority;

(f) Rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon.

8. Decisions in the Finance Committee on questions of procedure shall be taken by a majority of members present and voting. Decisions on questions of substance shall be taken by consensus.

9. The requirement of article 162, paragraph 2 (y), of the Convention to establish a subsidiary organ to deal with financial matters shall be deemed to have been fulfilled by the establishment of the Finance Committee in accordance with this section.



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STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

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

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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

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

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

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:

(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention

which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS
AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

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

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;

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(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States 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. In implementing the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States 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 information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7

Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving

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compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

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

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

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

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8

Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

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4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9

Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are

aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10

Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

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(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have

timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and

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dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15

Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16

Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV

NON-MEMBERS AND NON-PARTICIPANTS

Article 17

Non-members of organizations and non-participants
in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

DUTIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

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(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations 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. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.

4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.

5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.

6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.

2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.

4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22

Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

(a) accept and facilitate prompt and safe boarding by the inspectors;

(b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;

(c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;

(d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;

(e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and

(f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

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PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 24

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25

Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

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(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28

Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and

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arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31

Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32

Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.
2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI

RESPONSIBILITY AND LIABILITY

Article 35

Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII

REVIEW CONFERENCE

Article 36

Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view

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to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII

FINAL PROVISIONS

Article 37

Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38

Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

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2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41

Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, 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 Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

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

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the

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relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45

Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Agreement as so amended; and

(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47

Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and

(b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

(a) at the time of signature or accession, such international organization shall make a declaration stating:

(i) that it has competence over all the matters governed by this Agreement;

(ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and

(iii) that it accepts the rights and obligations of States under this Agreement;

(b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;

(c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48

Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

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OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX I

STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1

General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2

Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant

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subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3

Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4

Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5

Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6

Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports; and
- (d) port sampling.

Article 7

Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

ANNEX II

GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE
POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH
STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.
2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.
3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.
4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.
5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.
6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.
7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.



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ENVIRONMENT AND SUSTAINABLE DEVELOPMENT: SUSTAINABLE USE AND
CONSERVATION OF THE MARINE LIVING RESOURCES OF THE HIGH SEAS

United Nations Conference on Straddling Fish Stocks
and Highly Migratory Fish Stocks

Report of the Secretary-General

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I. INTRODUCTION

1. The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened pursuant to paragraph 1 of General Assembly resolution 47/192 of 22 December 1992, in accordance with the mandate agreed upon at the United Nations Conference on Environment and Development.

2. The United Nations Conference on Environment and Development, held at Rio de Janeiro from 3 to 14 June 1992, adopted Agenda 21, 1/ paragraph 17.49 of which reads as follows:

"States should take effective action, including bilateral and multilateral cooperation, where appropriate at the subregional, regional and global levels, to ensure that high seas fisheries are managed in accordance with the provisions of the United Nations Convention on the Law of the Sea. In particular, they should:

"...

"(e) Convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The conference, drawing, inter alia, on scientific and technical studies by the Food and Agriculture Organization of the United Nations (FAO) should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of improving cooperation on fisheries among States, and formulate appropriate recommendations. The work and the results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas."

3. The General Assembly, in its resolution 47/192, recalled Agenda 21, in particular chapter 17, programme area C, relating to the sustainable use and conservation of marine living resources of the high seas, and decided that the Conference, in accordance with the mandate quoted above, should take into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The Assembly further decided that the Conference, drawing, inter alia, on scientific and technical studies by the Food and Agriculture Organization of the United Nations, should: (a) identify and assess existing problems related to the conservation and management of such fish stocks; (b) consider means of improving fisheries cooperation among States; and (c) formulate appropriate recommendations.

4. The General Assembly also reaffirmed that the work and results of the Conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of

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coastal States and States fishing on the high seas, and that States should give full effect to the high seas fisheries provisions of the Convention with regard to fisheries populations whose ranges lie both within and beyond exclusive economic zones (straddling fish stocks) and highly migratory fish stocks.

5. By the same resolution, the General Assembly invited relevant specialized agencies and other appropriate organs, organizations and programmes of the United Nations system, as well as regional and subregional fisheries organizations, to contribute relevant scientific and technical studies and reports. It also invited relevant non-governmental organizations from developed and developing countries to contribute to the Conference within the areas of their competence and expertise.

6. Subsequently, in its resolutions 48/194 and 49/121, adopted on 21 December 1993 and 19 December 1994 respectively, the General Assembly renewed the mandate of the Conference and requested the Secretary-General to submit to the General Assembly the final report on the work of the Conference. The present report is submitted in response to the request contained in those resolutions.

II. SESSIONS OF THE CONFERENCE

7. Pursuant to General Assembly resolutions 47/192, 48/194 and 49/121, the sessions of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks were held at United Nations Headquarters in New York as follows: 2/

- First session: 19 to 23 April 1993;
- Second session: 12 to 30 July 1993;
- Third session: 14 to 31 March 1994;
- Fourth session: 15 to 26 August 1994;
- Fifth session: 27 March to 12 April 1995;
- Sixth session: 24 July to 4 August 1995. 3/

III. PARTICIPATION IN THE CONFERENCE

8. Pursuant to paragraph 4 of General Assembly resolution 47/192, the following were invited to the Conference:

(a) States Members of the United Nations or members of the specialized agencies and the International Atomic Energy Agency;

(b) Representatives of organizations that have received a standing invitation from the Assembly to participate, in the capacity of observers, in the sessions and work of all international conferences convened under its auspices;

(c) Associate members of regional commissions;

(d) Representatives of the national liberation movements recognized by the Organization of African Unity in its region;

(e) Specialized agencies and the International Atomic Energy Agency, as well as other organs, organizations and programmes of the United Nations system;

(f) Relevant intergovernmental organizations that had been invited to participate in the work of the Preparatory Committee for the United Nations Conference on Environment and Development;

(g) Regional and subregional fisheries organizations;

(h) Relevant non-governmental organizations.

9. The representatives of the following States participated in the sessions of the Conference: Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Brazil, Bulgaria, Burundi, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kazakstan, Kenya, Kiribati, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norway, Pakistan, Palau, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Viet Nam, Zambia and Zimbabwe.

10. The representative of the European Community 4/ participated in the sessions without the right to vote.

11. The following associate members of a regional commission were represented as observers at the sessions: Montserrat and United States Virgin Islands.

12. The following national liberation movement was represented as observer at the first session: Pan Africanist Congress of Azania.

13. The following specialized agencies were represented as observers at the sessions: Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Bank.

14. The Intergovernmental Oceanographic Commission of UNESCO (IOC), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP) were also present as observers at the sessions.

15. The following intergovernmental organizations were represented as observers at the sessions: Asian-African Legal Consultative Committee, Commission on the Indian Ocean, Inter-American Tropical Tuna Commission, International Commission for the Conservation of Atlantic Tunas, International Council for the Exploration of the Sea, International Maritime Satellite Organization, International Whaling Commission, Latin American Organization for the Development of Fisheries, Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean, North Atlantic Salmon Conservation Organization, Northwest Atlantic Fisheries Organization, Organization of African Unity, Organisation for Economic Cooperation and Development, South Pacific Commission, South Pacific Permanent Commission, and South Pacific Forum Fisheries Agency.

16. The following non-governmental organizations were represented as observers at the sessions: Alaska Marine Conservation Council, Alaska Public Interest Research Group, American Oceans Campaign, American Society of International Law, Association Algérienne pour la Protection de la Nature et de l'Environnement, Association Tunisienne pour la Protection de la Nature et de l'Environnement, Association of the Bar of the City of New York, Atlantic Salmon Federation, Bering Sea Fisherman's Association, Both Ends, Canadian Oceans Caucus, Center for Development of International Law, Center for Marine Conservation, Centre de Recherches pour le Développement des Technologies Intermédiaires de Pêche, Comité Catholique contre la Faim et pour le Développement, Confederación de Trabajadores Portuarios, Gente de Mar y Pesqueros de Chile, Confederación Nacional de Pescadores Artesanales de Chile, Coordinadora de Tripulantes Pesqueros Industriales del Cono Sur de América Latina, Council on Ocean Law, Earth Council, Earth Island Institute, Earthtrust, Environmental Defense Fund, Federación Nacional de Cooperativas Pesqueras del Ecuador, Federation of Japan Tuna Fisheries Cooperative Associations, Fish, Food and Allied Workers, Fisheries Council of Canada, Four Directions Council, Friends of the Earth International, Friends World Committee for Consultations (Quaker United Nations Office), Fundación Hernandiana, Global Education Associates, Greenpeace International, Groupement d'Intérêt Économique, International Coalition of Fisheries Associations, International Coastal and Ocean Organization, International Collective in Support of Fishworkers, International Confederation of Free Trade Unions, International Institute for Sustainable Development, International Law Association, International Ocean Institute, International Union for the Conservation of Nature and Natural Resources (IUCN), Japan Fisheries Association, Kandune Self-Help Water Project, Marine Environmental Research Institute, Namibian Food and Allied Workers Union, National Audubon Society, National Wildlife Federation, Nationwide Coalition of Fisherfolks for Aquatic Reform, Natural Resources Defense Council, Netherlands National Committee for IUCN, Newfoundland and Labrador Environmental Association, Newfoundland Inshore Fisheries Association, Ocean Trust, Oceans Institute of Canada, Overseas Fishery Cooperation Foundation, Pamalakaya (National United Movement of Fisherfolk - Philippines), Red Mexicana de Acción frente al Libre Comercio, Réserve Internationale Maritime en Méditerranée Occidentale, Samoan Association of Non-governmental Organizations, Sindicato de Obreros Marítimos

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Unidos, SONAR (Save Our Northwest Atlantic Resources), Trickle-Up Program, United Nations Association in Canada, United Nations Association-United Kingdom, United Nations Environment and Development-United Kingdom Committee, Wildlife Conservation Society, Women and Fisheries Network, World Wide Fund for Nature, World Wide Fund Suisse.

17. Pursuant to paragraph 9 of General Assembly resolution 47/192, a voluntary fund was established in the Secretariat for the purpose of assisting developing countries, especially those most concerned by the subject-matter of the Conference, in particular the least developed among them, to participate in the Conference. Contributions to the Fund were made by the Governments of Canada, Japan, Norway and the Republic of Korea.

IV. OFFICERS AND COMMITTEES

18. At its first meeting, the Conference elected Mr. Satya N. Nandan (Fiji) as its Chairman.

19. The Conference also elected the representatives of Chile, Italy and Mauritania as Vice-Chairmen.

20. The Conference appointed the representatives of the following States as members of the Credentials Committee: Antigua and Barbuda, Argentina, Burundi, China, Kenya, New Zealand, Papua New Guinea, Russian Federation and United States of America. At its first meeting, on 28 July 1993, the Credentials Committee elected Mr. Alberto Luis Daverede (Argentina) as its Chairman.

21. At the first and second sessions, Mr. Carl-August Fleischhauer, Under-Secretary-General for Legal Affairs, the Legal Counsel, and thereafter Mr. Hans Corell, served as Secretary-General of the Conference, representing the Secretary-General of the United Nations. For the first four sessions, Mr. Dolliver L. Nelson, and thereafter Mr. Moritaka Hayashi, served as Secretary of the Conference.

22. In accordance with paragraph 11 of General Assembly resolution 47/192, FAO provided an officer, Mr. David J. Doulman, to serve as Scientific and Technical Adviser to the Conference.

V. DOCUMENTATION OF THE CONFERENCE

23. The Conference documentation 5/ included, inter alia, the following:

- (a) Rules of procedure; 6/
- (b) Proposals and other communications submitted by delegations; 7/
- (c) Reports and studies submitted by the Secretariat, FAO and IOC; 8/
- (d) Reports and comments submitted by intergovernmental organizations, regional and subregional fisheries organizations and arrangements; 9/

/...

(e) Statements by the Chairman of the Conference; 10/

(f) A guide to the issues before the Conference, the negotiating texts and the draft agreement prepared by the Chairman of the Conference. 11/

VI. WORK OF THE CONFERENCE

24. The Conference adopted its agenda and the rules of procedure at its first session.

25. At the second session, the Conference devoted the first three days to general debate, following which the Chairman outlined the key issues on which there was general agreement. 12/

26. At the same session, the Conference proceeded to examine the issues relating to straddling fish stocks and highly migratory fish stocks as contained in the document entitled "A guide to the issues before the Conference prepared by the Chairman" (A/CONF.164/10).

27. At the end of the second session, the Chairman prepared a negotiating text (A/CONF.164/13), which the Conference considered at the third session.

28. Also at the third session, the Conference established two open-ended working groups to consider the information papers, prepared by FAO at the request of the Conference, on the precautionary approach to fisheries management and on management reference points. Mr. Andrés Couve (Chile) and Mr. Andrew Rosenberg (United States of America) served as chairmen of the working groups. The results of the work of the two working groups are contained in documents A/CONF.164/WP.1 and WP.2. At the end of the third session, the Chairman submitted a revision of his negotiating text (A/CONF.164/13/Rev.1), which reflected the work of the working groups.

29. At the fourth session, the Chairman prepared a new revision to his negotiating text in the form of a binding instrument, entitled "Draft 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" (A/CONF.164/22). At the end of the fifth session, the Chairman prepared a revised text of the draft Agreement (A/CONF.164/22/Rev.1).

30. At the sixth session, the Conference considered the revised text of the draft Agreement and suggested drafting changes and editorial improvements (A/CONF.164/CRP.7). Following the deliberations of the Conference, the Chairman proposed for adoption a "Draft 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" (A/CONF.164/33).

31. On 4 August 1995, the Conference adopted without a vote 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

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Straddling Fish Stocks and Highly Migratory Fish Stocks, as well as resolutions I and II (A/CONF.164/32, annex). At the same meeting, the Conference approved the draft Final Act (A/CONF.164/32). 13/ In doing so, the Conference discharged the mandate given to it by the General Assembly in its resolution 47/192. The Conference requested the Secretariat to prepare the final text of the Agreement, incorporating necessary editing and drafting changes and ensuring concordance among the six language versions. 14/ The final text of the Agreement and of the two resolutions are contained respectively in annexes I and II to the present report.

32. The Conference decided to resume its sixth session on 4 December 1995 for a ceremony of signature of the Agreement and the Final Act.

Notes

1/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.96.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex II.

2/ The reports on each of the sessions are contained in A/CONF.164/9 (first (organizational) session), A/CONF.164/16 and Corr.1 (second session), A/CONF.164/20 (third session), A/CONF.164/25 (fourth session), A/CONF.164/29 (fifth session) and A/CONF.164/36 (sixth session).

3/ See paragraph 32 below.

4/ Rule 2 of the rules of procedure of the Conference (A/CONF.164/6) provides that:

"The representative of the European Economic Community shall participate in the Conference in matters within its competence without the right to vote. Such representation shall in no case entail an increase of the representation to which the States members of the European Economic Community would otherwise be entitled."

In adopting the above rule the Conference recorded the following understanding:

"This rule is agreed upon in view of the fact that, with regard to the conservation and management of the sea fishing resources, States members of the European Economic Community have transferred competence to the Community, and in no way does it constitute a precedent for other United Nations forums where a similar transfer of competence does not occur. (See Declaration of the European Economic Community upon signing the United Nations Convention on the Law of the Sea. Multilateral Treaties Deposited with the Secretary-General (United Nations Publication, Sales No. E.95.V.5), chap. XXI.6.)" (A/CONF.164/6, note 1)

The Secretariat was informed during the third session of the Conference that the European Economic Community had changed its name to "European Community".

5/ For a complete listing of the Conference documentation, see A/CONF.164/INF/16.

6/ A/CONF.164/6.

7/ A/CONF.164/L.1 to L.50.

8/ Report of the Technical Consultation on High Seas Fishing and the papers presented at the Technical Consultation on High Seas Fishing (FAO) (A/CONF.164/INF/2); information on activities of the Intergovernmental Oceanographic Commission relevant to the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/INF/3); some high seas fisheries aspects relating to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/4 and Corr.1); background paper prepared by the Secretariat (A/CONF.164/INF/5); the precautionary approach to fisheries with reference to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/8); and reference points for fisheries management: their potential application to straddling and highly migratory resources (FAO) (A/CONF.164/INF/9).

9/ Report of the first session of the International Conference on the Conservation and Management of the Marine Living Resources in the High Seas of the Okhotsk Sea (submitted by the delegation of the Russian Federation) (A/CONF.164/INF/6); ad hoc consultation on the role of regional fishery agencies in relation to high seas fishing statistics (A/CONF.164/INF/10); comments by the Coordinating Working Party on Fishery Statistics on annex I to the Draft 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 (A/CONF.164/INF/13).

10/ A/CONF.164/7, 8, 11, 12, 15, 17, 19, 21, 24, 26, 28, 30 and 35.

11/ A guide to the issues before the Conference (A/CONF.164/10); negotiating text (A/CONF.164/13); revised negotiating text (A/CONF.164/13/Rev.1); draft 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 (A/CONF.164/22); revised Draft Agreement (A/CONF.164/22/Rev.1); and Draft Agreement (A/CONF.164/33).

12/ See A/48/479, para. 10.

13/ The final text of the Final Act was issued as document A/CONF.164/38.

14/ The final edited text of the Agreement was issued as document A/CONF.164/37.

ANNEX I

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*

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

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

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

* Issued as document A/CONF.164/37.

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:

(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention

which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS
AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

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

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;

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(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States 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. In implementing the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States 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 information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7

Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving

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compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

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

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

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

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8

Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

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4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9

Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are

aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10

Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have

timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and

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dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15

Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16

Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV

NON-MEMBERS AND NON-PARTICIPANTS

Article 17

Non-members of organizations and non-participants
in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.
2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.
3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.
4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

DUTIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

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(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations 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. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.
2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.
3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.
4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.
5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.
6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.
7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.
2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.
3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.
4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.
5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.
6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22

Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

- (a) accept and facilitate prompt and safe boarding by the inspectors;
- (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
- (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;
- (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and
- (f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 24

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25

Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

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(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28

Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and

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arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31

Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32

Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.
2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

PART XI

RESPONSIBILITY AND LIABILITY

Article 35

Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII

REVIEW CONFERENCE

Article 36

Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view

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to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII

FINAL PROVISIONS

Article 37

Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38

Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

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2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41

Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, 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 Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

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

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the

relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45

Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Agreement as so amended; and

(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47

Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and

(b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

(a) at the time of signature or accession, such international organization shall make a declaration stating:

(i) that it has competence over all the matters governed by this Agreement;

(ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and

(iii) that it accepts the rights and obligations of States under this Agreement;

(b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;

(c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48

Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

Annex I

STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1

General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2

Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3

Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

/...

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4

Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5

Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6

Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports; and
- (d) port sampling.

Article 7

Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

Annex II

GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE
POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH
STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.
2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.
3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.
4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.
5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.
6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.
7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.

ANNEX II

Resolution I

Early and effective implementation 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

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having 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 Fish Stocks and Highly Migratory Fish Stocks,

Underlining the importance of early and effective implementation of the Agreement,

Recognizing, therefore, the need to provide for the provisional application of the Agreement,

Emphasizing the importance of rapid entry into force of the Agreement and early achievement of universal participation,

1. Requests the Secretary-General of the United Nations to open the Agreement for signature in New York on 4 December 1995;

2. Urges all States and other entities referred to in article 1, paragraph 2 (b), of the Agreement to sign it on 4 December 1995 or at the earliest subsequent opportunity and thereafter to ratify, or accede to it;

3. Calls upon States and other entities referred to in paragraph 2 of the present resolution to apply the Agreement provisionally.

Resolution II

Reports on developments by the Secretary-General of the United Nations

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having 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 Fish Stocks and Highly Migratory Fish Stocks,

Recognizing the importance of periodic consideration and review of developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

Recalling General Assembly resolution 49/28 of 6 December 1994, in which the Assembly underlined the importance of consideration and review of the overall developments relating to the law of the sea by the Assembly, as the global institution having the competence to undertake such a review,

Recalling also the responsibility of the Secretary-General under the United Nations Convention on the Law of the Sea to report on developments pertaining to the implementation of the Convention,

Recognizing the importance of exchange of information among States, and relevant intergovernmental and non-governmental organizations concerning the implementation of the Agreement,

1. Recommends to the General Assembly that it review developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, on the basis of a report to be submitted by the Secretary-General at the second session following the adoption of the Agreement and biennially thereafter;

2. Requests the Secretary-General of the United Nations, in preparing such report, to take into account information provided by States, the Food and Agriculture Organization of the United Nations and its fisheries bodies and subregional and regional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and relevant non-governmental organizations;

3. Also requests the Secretary-General to cooperate with the Food and Agriculture Organization of the United Nations in order to ensure that reporting on all major fisheries instruments and activities is coordinated and the required scientific and technical analysis standardized to minimize duplication and to reduce the reporting burden for national administrations.

CODE OF CONDUCT
FOR
RESPONSIBLE FISHERIES



Food
and
Agriculture
Organization
of
the
United
Nations

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RESPONSIBLE FISHERIES

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
ROME, 1995

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PREFACE

From ancient times, fishing has been a major source of food for humanity and a provider of employment and economic benefits to those engaged in this activity. The wealth of aquatic resources was assumed to be an unlimited gift of nature. However, with increased knowledge and the dynamic development of fisheries after the second world war, this myth has faded in face of the realization that aquatic resources, although renewable, are not infinite and need to be properly managed, if their contribution to the nutritional, economic and social well-being of the growing world's population is to be sustained.

The widespread introduction in the mid-seventies of exclusive economic zones (EEZs) and the adoption in 1982, after long deliberations, of the United Nations Convention on the Law of the Sea provided a new framework for the better management of marine resources. The new legal regime of the ocean gave coastal States rights and responsibilities for the management and use of fishery resources within their EEZs which embrace some 90 percent of the world's marine fisheries. Such extended national jurisdiction was a necessary but insufficient step toward the efficient management and sustainable development of fisheries. Many coastal States continued to face serious challenges as, lacking, experience and financial and physical resources, they sought to extract greater benefits from the fisheries within their EEZs.

In recent years, world fisheries have become a market-driven, dynamically developing sector of the food industry and coastal States have striven to take advantage of their new opportunities by investing in modern fishing fleets and processing factories in response to growing international demand for fish and fishery products. By the late 1980s it became clear, however, that fisheries resources could no longer sustain such rapid and often uncontrolled exploitation and development, and that new approaches to fisheries management embracing conservation and environmental considerations were urgently needed. The situation was aggravated by the realization that unregulated fisheries on the high seas, in some cases involving straddling and highly migratory fish species, which occur within and outside EEZs, were becoming a matter of increasing concern.

The Committee on Fisheries (COFI) at its Nineteenth Session in March 1991 called for the development of new concepts which would lead to responsible, sustained fisheries. Subsequently, the International Conference on Responsible Fishing, held in 1992 in Cancún (Mexico) further requested. FAO to prepare an international Code of Conduct to address these concerns. The outcome of this Conference, particularly the Declaration of Cancún, was an important contribution to the 1992 United Nations Conference on Environment and Development (UNCED), in particular its Agenda 21. Subsequently, the United

Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened, to which FAO provided important technical back-up. In November 1993, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas was adopted at the Twenty-seventh Session of the FAO Conference.

Noting these and other important developments in world fisheries, the FAO Governing Bodies recommended the formulation of a global Code of Conduct for Responsible Fisheries which would be consistent with these instruments and, in a non-mandatory manner, establish principles and standards applicable to the conservation, management and development of all fisheries. The Code, which was unanimously adopted on 31 October 1995 by the FAO Conference, provides a necessary framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment.

FAO, in accordance with its mandate, is fully committed to assisting Member States, particularly developing countries, in the efficient implementation of the Code of Conduct for Responsible Fisheries and will report to the United Nations community on the progress achieved and further action required.

INTRODUCTION

Fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic well-being for people throughout the world, both for present and future generations and should therefore be conducted in a responsible manner. This Code sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity. The Code recognizes the nutritional, economic, social, environmental and cultural importance of fisheries and the interests of all those concerned with the fishery sector. The Code takes into account the biological characteristics of the resources and their environment and the interests of consumers and other users. States and all those involved in fisheries are encouraged to apply the Code and give effect to it.

ARTICLE 1 - NATURE AND SCOPE OF THE CODE

1.1 This Code is voluntary. However, certain parts of it are based on relevant rules of international law, including those reflected in the United Nations Convention on the Law of the Sea of 10 December 1982¹. The Code also contains provisions that may be or have already been given binding effect by means of other obligatory legal instruments amongst the Parties, such as the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, which, according to FAO Conference resolution 15/93, paragraph 3, forms an integral part of the Code.

1.2 The Code is global in scope, and is directed toward members and non-members of FAO, fishing entities, sub regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries, such as fishers, those engaged in processing and marketing of fish and fishery products and other users of the aquatic environment in relation to fisheries.

1.3 The Code provides principles and standards applicable to the conservation, management and development of all fisheries. It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

¹ References in this Code; to the United Nations Convention on the Law of the Sea, 1982, or to other international agreements do not prejudice the position of any State with respect to signature, ratification or accession to the Convention or with respect to such other agreements.

1.4 In this Code, the reference to States includes the European Community in matters within its competence, and the term fisheries applies equally to capture fisheries and aquaculture.

ARTICLE 2 - OBJECTIVES OF THE CODE

The objectives of the Code are to:

- a) establish principles, in accordance with the relevant rules of international law, for responsible fishing and fisheries activities, taking into account all their relevant biological, technological, economic, social, environmental and commercial aspects;
- b) establish principles and criteria for the elaboration and implementation of national policies for responsible conservation of fisheries resources and fisheries management and development;
- c) serve as an instrument of reference to help States to establish or to improve the legal and institutional framework required for the exercise of responsible fisheries and in the formulation and implementation of appropriate measures;
- d) provide guidance which may be used where appropriate in the formulation and implementation of international agreements and other legal instruments, both binding and voluntary;
- e) facilitate and promote technical, financial and other cooperation in conservation of fisheries resources and fisheries management and development;
- f) promote the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities;
- g) promote protection of living aquatic resources and their environments and coastal areas;
- h) promote the trade of fish and fishery products in conformity with relevant international rules and avoid the use of measures that constitute hidden barriers to such trade;

- i) promote research on fisheries as well as on associated ecosystems and relevant environmental factors; and
- j) provide standards of conduct for all persons involved in the fisheries sector.

ARTICLE 3 - RELATIONSHIP WITH OTHER INTERNATIONAL INSTRUMENTS

3.1 The Code is to be interpreted and applied in conformity with the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea, 1982. Nothing in this Code prejudices the rights, jurisdiction and duties of States under international law as reflected in the Convention.

3.2 The Code is also to be interpreted and applied:

- a) in a manner consistent with the relevant provisions 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;
- b) in accordance with other applicable rules of international law, including the respective obligations of States pursuant to international agreements to which they are party; and
- c) in the light of the 1992 Declaration of Cancún, the 1992 Rio Declaration on Environment and Development, and Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED), in particular Chapter 17 of Agenda 21, and other relevant declarations and international instruments.

ARTICLE 4 - IMPLEMENTATION, MONITORING AND UPDATING

4.1 All members and non-members of FAO, fishing entities and relevant sub-regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation, management and utilization of fisheries resources and trade in fish and fishery products should collaborate in the fulfillment and implementation of the objectives and principles contained in this Code.

4.2 FAO, in accordance with its role within the United Nations system, will monitor the application and implementation of the Code and its effects on fisheries and the Secretariat will report accordingly to the Committee on Fisheries (COFI).

All States, whether members or non-members of FAO, as well as relevant international organizations, whether governmental or non-governmental should actively cooperate with FAO in this work.

4.3 FAO, through its competent bodies, may revise the Code, taking into account developments in fisheries as well as reports to COFI on the implementation of the Code.

4.4 States and international organizations, whether governmental or non-governmental, should promote the understanding of the Code among those involved in fisheries, including, where practicable, by the introduction of schemes which would promote voluntary acceptance of the Code and its effective application.

ARTICLE 5 - SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

5.1 The capacity of developing countries to implement the recommendations of this Code should be duly taken into account.

5.2 In order to achieve the objectives of this Code and to support its effective implementation, countries, relevant international organizations, whether governmental or non-governmental, and financial institutions should give full recognition to the special circumstances and requirements of developing countries, including in particular the least-developed among them, and small island developing countries. States, relevant intergovernmental and non-governmental organizations and financial institutions should work for the adoption of measures to address the needs of developing countries, especially in the areas of financial and technical assistance, technology transfer, training and scientific cooperation and in enhancing their ability to develop their own fisheries as well as to participate in high seas fisheries, including access to such fisheries.

ARTICLE 6 - GENERAL PRINCIPLES

6.1 States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources.

6.2 Fisheries management should promote the maintenance of the quality, diversity and availability of fishery resources in sufficient quantities for present and future generations in the context of food security, poverty alleviation and sustainable development. Management measures should not only ensure the conservation of

target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species.

6.3 States should prevent over fishing and excess fishing capacity and should implement management measures to ensure that fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate.

6.4 Conservation and management decisions for fisheries should be based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic and social factors. States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate.

6.5 States and subregional and regional fisheries management organizations should apply a precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment, taking account of the best scientific evidence available. The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment.

6.6 Selective and environmentally safe fishing gear and practices should be further developed and applied, to the extent practicable, in order to maintain biodiversity and to conserve the population structure and aquatic ecosystems and protect fish quality. Where proper selective and environmentally safe fishing gear and practices exist, they should be recognized and accorded a priority in establishing conservation and management measures for fisheries. States and users of aquatic ecosystems should minimize waste, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species.

6.7 The harvesting, handling, processing and distribution of fish and fishery products should be carried out in a manner which will maintain the nutritional value, quality and safety of the products, reduce waste and minimize negative impacts on the environment.

6.8 All critical fisheries habitats in marine and fresh water ecosystems, such as wetlands, mangroves, reefs, lagoons, nursery and spawning areas, should be protected and rehabilitated as far as possible and where necessary. Particular effort should be made to protect such habitats from destruction, degradation, pollution and other significant impacts resulting from human activities that threaten the health and viability of the fishery resources.

6.9 States should ensure that their fisheries interests, including the need for conservation of the resources, are taken into account in the multiple uses of the coastal zone and are integrated into coastal area management, planning and development.

6.10 Within their respective competences and in accordance with international law, including within the framework of subregional or regional fisheries conservation and management organizations or arrangements, States should ensure compliance with and enforcement of conservation and management measures and establish effective mechanisms, as appropriate, to monitor and control the activities of fishing vessels and fishing support vessels.

6.11 States authorizing fishing and fishing support vessels to fly their flags should exercise effective control over those vessels so as to ensure the proper application of this Code. They should ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels. States should also ensure that vessels flying their flags fulfill their obligations concerning the collection and provision of data relating to their fishing activities.

6.12 States should, within their respective competences and in accordance with international law, cooperate at subregional, regional and global levels through fisheries management organizations, other international agreements or other arrangements to promote conservation and management, ensure responsible fishing and ensure effective conservation and protection of living aquatic resources throughout their range of distribution, taking into account the need for compatible measures in areas within and beyond national jurisdiction.

6.13 States should, to the extent permitted by national laws and regulations, ensure that decision making processes are transparent and achieve timely solutions to urgent matters. States, in accordance with appropriate procedures, should facilitate consultation and the effective participation of industry, fishworkers, environmental and other interested organizations in decision-making with respect to the

development of laws and policies related to fisheries management, development, international lending and aid.

6.14 International trade in fish and fishery products should be conducted in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement and other relevant international agreements. States should ensure that their policies, programmes and practices related to trade in fish and fishery products do not result in obstacles to this trade, environmental degradation or negative social, including nutritional, impacts.

6.15 States should cooperate in order to prevent disputes. All disputes relating to fishing activities and practices should be resolved in a timely, peaceful and cooperative manner, in accordance with applicable international agreements or as may otherwise be agreed between the parties. Pending settlement of a dispute, the States concerned should make every effort to enter into provisional arrangements of a practical nature which should be without prejudice to the final outcome of any dispute settlement procedure.

6.16 States, recognising the paramount importance to fishers and fishfarmers of understanding the conservation and management of the fishery resources on which they depend, should promote awareness of responsible fisheries through education and training. They should ensure that fishers and fishfarmers are involved in the policy formulation and implementation process, also with a view to facilitating the implementation of the Code.

6.17 States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.

6.18 Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.

6.19 States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.

ARTICLE 7 - FISHERIES MANAGEMENT**7.1 General**

7.1.1 States and all those engaged in fisheries management should, through an appropriate policy, legal and institutional framework, adopt measures for the longterm conservation and sustainable use of fisheries resources. Conservation and management measures, whether at local, national, subregional or regional levels, should be based on the best scientific evidence available and be designed to ensure the long-term sustainability of fishery resources at levels which promote the objective of their optimum utilization and maintain their availability for present and future generations; short-term considerations should not compromise these objectives.

7.1.2 Within areas under national jurisdiction, States should seek to identify relevant domestic parties having a legitimate interest in the use and management of fisheries resources and establish arrangements for consulting them to gain their collaboration in achieving responsible fisheries.

7.1.3 For transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks, where these are exploited by two or more States, the States concerned, including the relevant coastal States in the case of straddling and highly migratory stocks, should cooperate to ensure effective conservation and management of the resources. This should be achieved, where appropriate, through the establishment of a bilateral, subregional or regional fisheries organization or arrangement.

7.1.4 A subregional or regional fisheries management organization or arrangement should include representatives of States in whose jurisdictions the resources occur, as well as representatives from States which have a real interest in the fisheries or the resources outside national jurisdictions. Where a subregional or regional fisheries management organization or arrangement exists and has the competence to establish conservation and management measures, those States should cooperate by becoming a member of such organization or a participant in such arrangement, and actively participate in its work.

7.1.5 A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement should nevertheless cooperate, in accordance with relevant international agreements and international law, in the conservation and management of the relevant fisheries resources by giving effect to any conservation and management measures adopted by such organization or arrangement.

7.1.6 Representatives from relevant organizations, both governmental and non-governmental, concerned with fisheries should be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such representative should be given timely access to the records and reports of such meetings, subject to the procedural rules on access to them.

7.1.7 States should establish, within their respective competences and capacities, effective mechanisms for fisheries monitoring, surveillance, control and enforcement to ensure compliance with their conservation and management measures, as well as those adopted by subregional or regional organizations or arrangements.

7.1.8 States should take measures to prevent or eliminate excess fishing capacity and should ensure that levels of fishing effort are commensurate with the sustainable use of fishery resources as a means of ensuring the effectiveness of conservation and management measures.

7.1.9 States and subregional or regional fisheries management organizations and arrangements should ensure transparency in the mechanisms for fisheries management and in the related decision-making process.

7.1.10 States and subregional or regional fisheries management organizations and arrangements should give due publicity to conservation and management measures and ensure that laws, regulations and other legal rules governing their implementation are effectively disseminated. The bases and purposes of such measures should be explained to users of the resource in order to facilitate their application and thus gain increased support in the implementation of such measures.

7.2 Management objectives

7.2.1 Recognizing that long-term sustainable use of fisheries resources is the overriding objective of conservation and management, States and subregional or regional fisheries management organizations and arrangements should, *inter alia*, adopt appropriate measures, based on the best scientific evidence available, which are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing countries.

7.2.2 Such measures should provide *inter alia* that:

- a) excess fishing capacity is avoided and exploitation of the stocks remains economically viable;
- b) the economic conditions under which fishing industries operate promote responsible fisheries;
- c) the interests of fishers, including those engaged in subsistence, small-scale and artisanal fisheries, are taken into account;
- d) biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected;
- e) depleted stocks are allowed to recover or, where appropriate, are actively restored;
- f) adverse environmental impacts on the resources from human activities are assessed and, where appropriate, corrected; and
- g) pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species are minimized, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

7.2.3 States should assess the impacts of environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks, and assess the relationship among the populations in the ecosystem.

7.3 Management framework and procedures

7.3.1 To be effective, fisheries management should be concerned with the whole stock unit over its entire area of distribution and take into account previously agreed management measures established and applied in the same region, all removals and the biological unity and other biological characteristics of the stock. The best scientific evidence available should be used to determine, *inter alia*, the area of distribution of the resource and the area through which it migrates during its life cycle.

7.3.2 In order to conserve and manage transboundary fish stocks, straddling fish stocks, highly migratory fish stocks and high seas fish stocks throughout their range,

conservation and management measures established for such stocks in accordance with the respective competences of relevant States or, where appropriate, through subregional and regional fisheries management organizations and arrangements, should be compatible. Compatibility should be achieved in a manner consistent with the rights, competences and interests of the States concerned.

7.3.3 Long-term management objectives should be translated into management actions, formulated as a fishery management plan or other management framework.

7.3.4 States and, where appropriate, subregional or regional fisheries management organizations and arrangements should foster and promote international cooperation and coordination in all matters related to fisheries, including information gathering and exchange, fisheries research, management and development.

7.3.5 States seeking to take any action through a non-fishery organization which may affect the conservation and management measures taken by a competent subregional or regional fisheries management organization or arrangement should consult with the latter, in advance to the extent practicable, and take its views into account.

7.4 Data gathering and management advice

7.4.1 When considering the adoption of conservation and management measures, the best scientific evidence available should be taken into account in order to evaluate the current state of the fishery resources and the possible impact of the proposed measures on the resources.

7.4.2 Research in support of fishery conservation and management should be promoted, including research on the resources and on the effects of climatic, environmental and socio-economic factors. The results of such research should be disseminated to interested parties.

7.4.3 Studies should be promoted which provide an understanding of the costs, benefits and effects of alternative management options designed to rationalize fishing, in particular, options relating to excess fishing capacity and excessive levels of fishing effort.

7.4.4 States should ensure that timely, complete and reliable statistics on catch and fishing effort are collected and maintained in accordance with applicable international standards and practices and in sufficient detail to allow sound statistical analysis. Such data should be updated regularly and verified through an appropriate

system. States should compile and disseminate such data in a manner consistent with any applicable confidentiality requirements.

7.4.5 In order to ensure sustainable management of fisheries and to enable social and economic objectives to be achieved, sufficient knowledge of social, economic and institutional factors should be developed through data gathering, analysis and research.

7.4.6 States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organizations or arrangements in an internationally agreed format and provide them in a timely manner to the organization or arrangement. In cases of stocks which occur in the jurisdiction of more than one State and for which there is no such organization or arrangement, the States concerned should agree on a mechanism for cooperation to compile and exchange such data.

7.4.7 Subregional or regional fisheries management organizations or arrangements should compile data and make them available, in a manner consistent with any applicable confidentiality requirements, in a timely manner and in an agreed format to all members of these organizations and other interested parties in accordance with agreed procedures.

7.5 Precautionary approach

7.5.1 States should apply the precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.

7.5.2 In implementing the precautionary approach, States should take into account, *inter alia*, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities, including discards, on non-target and associated or dependent species as well as environmental and socio-economic conditions.

7.5.3 States and subregional or regional fisheries management organizations and arrangements should, on the basis of the best scientific evidence available, *inter alia*, determine:

- a) stock specific target reference points, and, at the same time, the action to be taken if they are exceeded; and
- b) stock specific limit reference points and, at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded.

7.5.4 In the case of new or exploratory fisheries, States should adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures should remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment should be implemented. The latter measures should, if appropriate, allow for the gradual development of the fisheries.

7.5.5 If a natural phenomenon has a significant adverse impact on the status of living aquatic resources, States should adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States should also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such resources. Measures taken on an emergency basis should be temporary and should be based on the best scientific evidence available.

7.6 Management measures

7.6.1 States should ensure that the level of fishing permitted is commensurate with the state of fisheries resources.

7.6.2 States should adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with international law for the high seas or in conformity with national legislation within areas of national jurisdiction.

7.6.3 Where excess fishing capacity exists, mechanisms should be established to reduce capacity to levels commensurate with the sustainable use of fisheries resources so as to ensure that fishers operate under economic conditions that promote responsible fisheries. Such mechanisms should include monitoring the capacity of fishing fleets.

7.6.4 The performance of all existing fishing gear, methods and practices should be examined and measures taken to ensure that fishing gear, methods and practices

which are not consistent with responsible fishing are phased out and replaced with more acceptable alternatives. In this process, particular attention should be given to the impact of such measures on fishing communities, including their ability to exploit the resource.

7.6.5 States and fisheries management organizations and arrangements should regulate fishing in such a way as to avoid the risk of conflict among fishers using different vessels, gear and fishing methods.

7.6.6 When deciding on the use, conservation and management of fisheries resources, due recognition should be given, as appropriate, in accordance with national laws and regulations, to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resources for their livelihood.

7.6.7 In the evaluation of alternative conservation and management measures, their cost-effectiveness and social impact should be considered.

7.6.8 The efficacy of conservation and management measures and their possible interactions should be kept under continuous review. Such measures should, as appropriate, be revised or abolished in the light of new information.

7.6.9 States should take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and negative impacts on associated or dependent species, in particular endangered species. Where appropriate, such measures may include technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries. Such measures should be applied, where appropriate, to protect juveniles and spawners. States and sub-regional or regional fisheries management organizations and arrangements should promote, to the extent practicable, the development and use of selective, environ-mentally safe and cost effective gear and techniques.

7.6.10 States and subregional and regional fisheries management organizations and arrangements, in the framework of their respective competences, should introduce measures for depleted resources and those resources threatened with depletion that facilitate the sustained recovery of such stocks. They should make every effort to ensure that resources and habitats critical to the well-being of such resources which have been adversely affected by fishing or other human activities are restored.

7.7 Implementation

7.7.1 States should ensure that an effective legal and administrative framework at the local and national level, as appropriate, is established for fisheries resource conservation and fisheries management.

7.7.2 States should ensure that laws and regulations provide for sanctions applicable in respect of violations which are adequate in severity to be effective, including sanctions which allow for the refusal, withdrawal or suspension of authorizations to fish in the event of non-compliance with conservation and management measures in force.

7.7.3 States, in conformity with their national laws, should implement effective fisheries monitoring, control, surveillance and law enforcement measures including, where appropriate, observer programmes, inspection schemes and vessel monitoring systems. Such measures should be promoted and, where appropriate, implemented by subregional or regional fisheries management organizations and arrangements in accordance with procedures agreed by such organizations or arrangements.

7.7.4 States and subregional or regional fisheries management organizations and arrangements, as appropriate, should agree on the means by which the activities of such organizations and arrangements will be financed, bearing in mind, *inter alia*, the relative benefits derived from the fishery and the differing capacities of countries to provide financial and other contributions. Where appropriate, and when possible, such organizations and arrangements should aim to recover the costs of fisheries conservation, management and research.

7.7.5 States which are members of or participants in subregional or regional fisheries management organizations or arrangements should implement internationally agreed measures adopted in the framework of such organizations or arrangements and consistent with international law to deter the activities of vessels flying the flag of non-members or non-participants which engage in activities which undermine the effectiveness of conservation and management measures established by such organizations or arrangements.

7.8 Financial institutions

7.8.1 Without prejudice to relevant international agreements, States should encourage banks and financial institutions not to require, as a condition of a loan or mortgage, fishing vessels or fishing support vessels to be flagged in a jurisdiction other than that of the State of beneficial ownership where such a requirement would

have the effect of increasing the likelihood of non-compliance with international conservation and management measures.

ARTICLE 8 - FISHING OPERATIONS

8.1 Duties of all States

8.1.1 States should ensure that only fishing operations allowed by them are conducted within waters under their jurisdiction and that these operations are carried out in a responsible manner.

8.1.2 States should maintain a record, updated at regular intervals, on all authorizations to fish issued by them.

8.1.3 States should maintain, in accordance with recognized international standards and practices, statistical data, updated at regular intervals, on all fishing operations allowed by them.

8.1.4 States should, in accordance with international law, within the framework of subregional or regional fisheries management organizations or arrangements, cooperate to establish systems for monitoring, control, surveillance and enforcement of applicable measures with respect to fishing operations and related activities in waters outside their national jurisdiction.

8.1.5 States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.

8.1.6 States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems.

8.1.7 States should enhance through education and training programmes the education and skills of fishers and, where appropriate, their professional qualifications. Such programmes should take into account agreed international standards and guidelines.

8.1.8 States should, as appropriate, maintain records of fishers which should, whenever possible, contain information on their service and qualifications, including certificates of competency, in accordance with their national laws.

8.1.9 States should ensure that measures applicable in respect of masters and other officers charged with an offence relating to the operation of fishing vessels should include provisions which may permit, *inter alia*, refusal, withdrawal or suspension of authorizations to serve as masters or officers of a fishing vessel.

8.1.10 States, with the assistance of relevant international organizations, should endeavour to ensure through education and training that all those engaged in fishing operations be given information on the most important provisions of this Code, as well as provisions of relevant international conventions and applicable environmental and other standards that are essential to ensure responsible fishing operations.

8.2 Flag State duties

8.2.1 Flag States should maintain records of fishing vessels entitled to fly their flag and authorized to be used for fishing and should indicate in such records details of the vessels, their ownership and authorization to fish.

8.2.2 Flag States should ensure that no fishing vessels entitled to fly their flag fish on the high seas or in waters under the jurisdiction of other States unless such vessels have been issued with a Certificate of Registry and have been authorized to fish by the competent authorities. Such vessels should carry on board the Certificate of Registry and their authorization to fish.

8.2.3 Fishing vessels authorized to fish on the high seas or in waters under the jurisdiction of a State other than the flag State, should be marked in accordance with uniform and internationally recognizable vessel marking systems such as the FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels.

8.2.4 Fishing gear should be marked in accordance with national legislation in order, that the owner of the gear can be identified. Gear marking requirements should take into account uniform and internationally recognizable gear marking systems.

8.2.5 Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.

8.2.6 States not party to the Agreement to Promote Compliance with International Conservation and Management Measures by Vessels Fishing in the High Seas should be encouraged to accept the Agreement and to adopt laws and regulations consistent with the provisions of the Agreement.

8.2.7 Flag States should take enforcement measures in respect of fishing vessels entitled to fly their flag which have been found by them to have contravened applicable conservation and management measures, including, where appropriate, making the contravention of such measures an offence under national legislation. Sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities. Such sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish.

8.2.8 Flag States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.

8.2.9 Flag States should ensure that crew members are entitled to repatriation, taking account of the principles laid down in the "Repatriation of Seafarers Convention (Revised), 1987, (No.166)".

8.2.10 In the event of an accident to a fishing vessel or persons on board a fishing vessel, the flag State of the fishing vessel concerned should provide details of the accident to the State of any foreign national on board the vessel involved in the accident. Such information should also, where practicable, be communicated to the International Maritime Organization.

8.3 Port State duties

8.3.1 Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

8.3.2 Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention, of pollution and for safety, health and conditions of work on board fishing vessels.

8.4 Fishing operations

8.4.1 States should ensure that fishing is conducted with due regard to the safety of human life and the International Maritime Organization International Regulations for Preventing Collisions at Sea, as well as International Maritime Organization requirements relating to the organization of marine traffic, protection of the marine environment and the prevention of damage to or loss of fishing gear.

8.4.2 States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

8.4.3 States should make every effort to ensure that documentation with regard to fishing operations, retained catch of fish and non-fish species and, as regards discards, the information required for stock assessment as decided by relevant management bodies, is collected and forwarded systematically to those bodies. States should, as far as possible, establish programmes, such as observer and inspection schemes, in order to promote compliance with applicable measures.

8.4.4 States should promote the adoption of appropriate technology, taking into account economic conditions, for the best use and care of the retained catch.

8.4.5 States, with relevant groups from industry, should encourage the development and implementation of technologies and operational methods that reduce discards. The use of fishing gear and practices that lead to the discarding of catch should be discouraged and the use of fishing gear and practices that increase survival rates of escaping fish should be promoted.

8.4.6 States should cooperate to develop and apply technologies, materials and operational methods that minimize the loss of fishing gear and the ghost fishing effects of lost or abandoned fishing gear.

8.4.7 States should ensure that assessments of the implications of habitat disturbance are carried out prior to the introduction on a commercial scale of new fishing gear, methods and operations to an area.

8.4.8 Research on the environmental and social impacts of fishing gear and, in particular, on the impact of such gear on biodiversity and coastal fishing communities should be promoted.

8.5 Fishing gear selectivity

8.5.1 States should require that fishing gear, methods and practices, to the extent practicable, are sufficiently selective so as to minimize waste, discards, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species and that the intent of related regulations is not circumvented by technical devices. In this regard, fishers should cooperate in the development of selective fishing gear and methods. States should ensure that information on new developments and requirements is made available to all fishers.

8.5.2 In order to improve selectivity, States should, when drawing up their laws and regulations, take into account the range of selective fishing gear, methods and strategies available to the industry.

8.5.3 States and relevant institutions should collaborate in developing standard methodologies for research into fishing gear selectivity, fishing methods and strategies.

8.5.4 International cooperation should be encouraged with respect to research programmes for fishing gear selectivity, and fishing methods and strategies, dissemination of the results of such research programmes and the transfer of technology.

8.6 Energy optimization

8.6.1 States should promote the development of appropriate standards and guidelines which would lead to the more efficient use of energy in harvesting and postharvest activities within the fisheries sector.

8.6.2 States should promote the development and transfer of technology in relation to energy optimization within the fisheries sector and, in particular, encourage owners, charterers and managers of fishing vessels to fit energy optimization devices to their vessels.

8.7 Protection of the aquatic environment

8.7.1 States should introduce and enforce laws and regulations based on the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

8.7.2 Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with appropriate equipment as required by MARPOL 73/78 and should consider fitting a shipboard compactor or incinerator to relevant classes of vessels in order to treat garbage and other shipboard wastes generated during the vessel's normal service.

8.7.3 Owners, charterers and managers of fishing vessels should minimize the taking aboard of potential garbage through proper provisioning practices.

8.7.4 The crew of fishing vessels should be conversant with proper shipboard procedures in order to ensure discharges do not exceed the levels set by MARPOL 73/78. Such procedures should, as a minimum, include the disposal of oily waste and the handling and storage of shipboard garbage.

8.8 Protection of the atmosphere

8.8.1 States should adopt relevant standards and guidelines which would include provisions for the reduction of dangerous substances in exhaust gas emissions.

8.8.2 Owners, charterers and managers of fishing vessels should ensure that their vessels are fitted with equipment to reduce emissions of ozone depleting substances. The responsible crew members of fishing vessels should be conversant with the proper running and maintenance of machinery on board.

8.8.3 Competent authorities should make provision for the phasing out of the use of chlorofluorocarbons (CFCs) and transitional substances such as hydrochlorofluorocarbons (HCFCs) in the refrigeration systems of fishing vessels and should ensure that the shipbuilding industry and those engaged in the fishing industry are informed of and comply with such provisions.

8.8.4 Owners or managers of fishing vessels should take appropriate action to refit existing vessels with alternative refrigerants to CFCs and HCFCs and alternatives to Halons in fire fighting installations. Such alternatives should be used in specifications for all new fishing vessels.

8.8.5 States and owners, charterers and managers of fishing vessels as well as fishers should follow international guidelines for the disposal of CFCs, HCFCs and Halons.

8.9 Harbours and landing places for fishing vessels

8.9.1 States should take into account, inter alia, the following in the design and construction of harbours and landing places:

- a) safe havens for fishing vessels and adequate servicing facilities for vessels, vendors and buyers are provided;
- b) adequate freshwater supplies and sanitation arrangements should be provided;
- c) waste disposal systems should be introduced, including for the disposal of oil, oily water and fishing gear;
- d) pollution from fisheries activities and external sources should be minimized; and
- e) arrangements should be made to combat the effects of erosion and siltation.

8.9.2 States should establish an institutional framework for the selection or improvement of sites for harbours for fishing vessels which allows for consultation among the authorities responsible for coastal area management.

8.10 Abandonment of structures and other materials

8.10.1 States should ensure that the standards and guidelines for the removal of redundant offshore structures issued by the International Maritime Organization are followed. States should also ensure that the competent fisheries authorities are consulted prior to decisions being made on the abandonment of structures and other materials by the relevant authorities.

8.11 Artificial reef's and fish aggregation devices

8.11.1 States, where appropriate, should develop policies for increasing stock populations and enhancing fishing opportunities through the use of artificial structures, placed with due regard to the safety of navigation, on or above the seabed or at the surface. Research into the use of such structures, including the impacts on living marine resources and the environment, should be promoted.

8.11.2 States should ensure that, when selecting the materials to be used in the creation of artificial reefs as well as when selecting the geographical location of such artificial reefs, the provisions of relevant international conventions concerning the environment and safety of navigation are observed.

8.11.3 States should, within the framework of coastal area management plan, establish management systems for artificial reefs and fish aggregation devices. Such management systems should require approval for the construction and deployment of such reefs and devices and should take into account the interests of fishers, including artisanal and subsistence fishers.

8.11.4 States should ensure that the authorities responsible for maintaining cartographic records and charts for the purpose of navigation, as well as relevant environmental authorities, are informed prior to the placement or removal of artificial reefs or fish aggregation devices.

ARTICLE 9 - AQUACULTURE DEVELOPMENT

9.1 Responsible development of aquaculture, including culture-based fisheries, in areas under national jurisdiction

9.1.1 States should establish, maintain and develop an appropriate legal and administrative framework which facilitates the development of responsible aquaculture.

9.1.2 States should promote responsible development and management of aquaculture, including an advance evaluation of the effects of aquaculture development on genetic diversity and ecosystem integrity, based on the best available scientific information.

9.1.3 States should produce and regularly update aquaculture development strategies and plans, as required, to ensure that aquaculture development is ecologically sustainable and to allow the rational use of resources shared by aquaculture and other activities.

9.1.4 States should ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments.

9.1.5 States should establish effective procedures specific to aquaculture to undertake appropriate environmental assessment and monitoring with the aim of minimizing adverse ecological changes and related economic and social consequences

resulting from water extraction, land use, discharge of effluents, use of drugs and chemicals, and other aquaculture activities.

9.2 Responsible development of aquaculture including culture-based fisheries within transboundary aquatic ecosystems

9.2.1 States should protect transboundary aquatic ecosystems by supporting responsible aquaculture practices within their national jurisdiction and by cooperation in the promotion of sustainable aquaculture practices.

9.2.2 States should, with due respect to their neighbouring States and in accordance with international law, ensure responsible choice of species, siting and management of aquaculture activities which could affect transboundary aquatic ecosystems.

9.2.3 States should consult with their neighbouring States, as appropriate, before introducing non-indigenous species into transboundary aquatic ecosystems.

9.2.4 States should establish appropriate mechanisms, such as databases and information networks to collect, share and disseminate data related to their aquaculture activities to facilitate cooperation on planning for aquaculture development at the national, subregional, regional and global level.

9.2.5 States should cooperate in the development of appropriate mechanisms, when required, to monitor the impacts of inputs used in aquaculture.

9.3 Use of aquatic genetic resources for the purposes of aquaculture including culture-based fisheries

9.3.1 States should conserve genetic diversity and maintain integrity of aquatic communities and ecosystems by appropriate management. In particular, efforts should be undertaken to minimize the harmful effects of introducing non-native species or genetically altered stocks used for aquaculture including culture-based fisheries into waters, especially where there is a significant potential for the spread of such non-native species or genetically altered stocks into waters under the jurisdiction of other States as well as waters under the jurisdiction of the State of origin. States should, whenever possible, promote steps to minimize adverse genetic, Disease and other effects of escaped farmed fish on wild stocks.

9.3.2 States should cooperate in the elaboration, adoption and implementation of international codes of practice and procedures for introductions and transfers of aquatic organisms.

9.3.3 States should, in order to minimize risks of disease transfer and other adverse effects on wild and cultured stocks, encourage adoption of appropriate practices in the genetic improvement of broodstocks, the introduction of non-native species, and in the production, sale and transport of eggs, larvae or fry, broodstock or other live materials. States should facilitate the preparation and implementation of appropriate national codes of practice and procedures to this effect.

9.3.4 States should promote the use of appropriate procedures for the selection of broodstock and the production of eggs, larvae and fry.

9.3.5 States should, where appropriate, promote research and, when feasible, the development of culture techniques for endangered species to protect, rehabilitate and enhance their stocks, taking into account the critical need to conserve genetic diversity of endangered species.

9.4 Responsible aquaculture at the production level

9.4.1 States should promote responsible aquaculture practices in support of rural communities, producer organizations and fish farmers.

9.4.2 States should promote active participation of fishfarmers and their communities in the development of responsible aquaculture management practices.

9.4.3 States should promote efforts which improve selection and use of appropriate feeds, feed additives and fertilizers, including manures.

9.4.4 States should promote effective farm and fish health management practices favouring hygienic measures and vaccines. Safe, effective and minimal use of therapeutants, hormones and drugs, antibiotics and other disease control chemicals should be ensured.

9.4.5 States should regulate the use of chemical inputs in aquaculture which are hazardous to human health and the environment.

9.4.6 States should require that the disposal of wastes such as offal, sludge, dead or diseased fish, excess veterinary drugs and other hazardous chemical inputs does not constitute a hazard to human health and the environment.

9.4.7 States should ensure the food safety of aquaculture products and promote efforts which maintain product quality and improve their value through particular

care before and during harvesting and on-site processing and in storage and transport of the products.

ARTICLE 10 - INTEGRATION OF FISHERIES INTO COASTAL AREA MANAGEMENT

10.1 Institutional framework

10.1.1 States should ensure that an appropriate policy, legal and institutional framework is adopted to achieve the sustainable and integrated use of the resources, taking into account the fragility of coastal ecosystems and the finite nature of their natural resources and the needs of coastal communities.

10.1.2 In view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes and involved in other activities related to coastal area management planning and development.

10.1.3 States should develop, as appropriate, institutional and legal frameworks in order to determine the possible uses of coastal resources and to govern access to them taking into account the rights of coastal fishing communities and their customary practices to the extent compatible with sustainable development.

10.1.4 States should facilitate the adoption of fisheries practices that avoid conflict among fisheries resources users and between them and other users of the coastal area.

10.1.5 States should promote the establishment of procedures and mechanisms at the appropriate administrative level to settle conflicts which arise within the fisheries sector and between fisheries resource users and other users of the coastal area.

10.2 Policy measures

10.2.1 States should promote the creation of public awareness of the need for the protection and management of coastal resources and the participation in the management process by those affected.

10.2.2 In order to assist decision-making on the allocation and use of coastal resources, States should promote the assessment of their respective value taking into account economic, social and cultural factors.

10.2.3 In setting policies for the management of coastal areas, States should take due account of the risks and uncertainties involved.

10.2.4 States, in accordance with their capacities, should establish or promote the establishment of systems to monitor the coastal environment as part of the coastal management process using physical, chemical, biological, economic and social parameters.

10.2.5 States should promote multidisciplinary research in support of coastal area management, in particular on its environmental, biological, economic, social, legal and institutional aspects.

10.3 Regional cooperation

10.3.1 States with neighbouring coastal areas should cooperate with one another to facilitate the sustainable use of coastal resources and the conservation of the environment.

10.3.2 In the case of activities that may have an adverse transboundary environmental effect on coastal areas, States should:

- a) provide timely information and, if possible, prior notification to potentially affected States;
- b) consult with those States as early as possible.

10.3.3 States should cooperate at the subregional and regional level in order to improve coastal area management.

10.4 Implementation

10.4.1 States should establish mechanisms for cooperation and coordination among national authorities involved in planning, development, conservation and management of coastal areas.

10.4.2 States should ensure that the authority or authorities representing the fisheries sector in the coastal management process have the appropriate technical capacities and financial resources.

ARTICLE 11 - POST-HARVEST PRACTICES AND TRADE**11.1 Responsible fish utilization**

11.1.1 States should adopt appropriate measures to ensure the right of consumers to safe, wholesome and unadulterated fish and fishery products.

11.1.2 States should establish and maintain effective national safety and quality assurance systems to protect consumer health and prevent commercial fraud.

11.1.3 States should set minimum standards for safety and quality assurance and make sure that these standards are effectively applied throughout the industry. They should promote the implementation of quality standards agreed within the context of the FAO/WHO Codex Alimentarius Commission and other relevant organizations or arrangements.

11.1.4 States should cooperate to achieve harmonization, or mutual recognition, or both, of national sanitary measures and certification programmes as appropriate and explore possibilities for the establishment of mutually recognized control and certification agencies.

11.1.5 States should give due consideration to the economic and social role of the post-harvest fisheries sector when formulating national policies for the sustainable development and utilization of fishery resources.

11.1.6 States and relevant organizations should sponsor research in fish technology and quality assurance and support projects to improve post-harvest handling of fish, taking into account the economic, social, environmental and nutritional impact of such projects.

11.1.7 States, noting the existence of different production methods, should through cooperation and by facilitating the development and transfer of appropriate technologies, ensure that processing, transporting and storage methods are environmentally sound.

11.1.8 States should encourage those involved in fish processing, distribution and marketing to:

- a) reduce post-harvest losses and waste;

b) improve the use of by-catch to the extent that this is consistent with responsible fisheries management practices; and

c) use the resources, especially water and energy, in particular wood, in an environmentally sound manner.

11.1.9 States should encourage the use of fish for human consumption and promote consumption of fish whenever appropriate.

11.1.10 States should cooperate in order to facilitate the production of value-added products by developing countries.

11.1.11 States should ensure that international and domestic trade in fish and fishery products accords with sound conservation and management practices through improving the identification of the origin of fish and fishery products traded.

11.1.12 States should ensure that environmental effects of post-harvest activities are considered in the development of related laws, regulations and policies without creating any market distortions.

11.2 Responsible international trade

11.2.1 The provisions of this Code should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organization (WTO) Agreement.

11.2.2 International trade in fish and fishery products should not compromise the sustainable development of fisheries and responsible utilization of living aquatic resources.

11.2.3 States should ensure that measures affecting international trade in fish and fishery products are transparent, based, when applicable, on scientific evidence, and are in accordance with internationally agreed rules.

11.2.4 Fish trade measures adopted by States to protect human or animal life or health, the interests of consumers or the environment, should not be discriminatory and should be in accordance with internationally agreed trade rules, in particular the principles, rights and obligations established in the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade of the WTO.

11.2.5 States should further liberalize trade in fish and fishery products and eliminate barriers and distortions to trade such as duties, quotas and non-tariff barriers in accordance with the principles, rights and obligations of the WTO Agreement.

11.2.6 States should not directly or indirectly create unnecessary or hidden barriers to trade which limit the consumer's freedom of choice of supplier or that restrict market access.

11.2.7 States should not condition access to markets to access to resources. This principle does not preclude the possibility of fishing agreements between States which include provisions referring to access to resources, trade and access to markets, transfer of technology, scientific research, training and other relevant elements.

11.2.8 States should not link access to markets to the purchase of specific technology or sale of other products.

11.2.9 States should cooperate in complying with relevant international agreements regulating trade in endangered species.

11.2.10 States should develop international agreements for trade in live specimens where there is a risk of environmental damage in importing or exporting States.

11.2.11 States should cooperate to promote adherence to, and effective implementation of relevant international standards for trade in fish and fishery products and living aquatic resource conservation.

11.2.12 States should not undermine conservation measures for living aquatic resources in order to gain trade or investment benefits.

11.2.13 States should cooperate to develop internationally acceptable rules or standards for trade in fish and fishery products in accordance with the principles, rights, and obligations established in the WTO Agreement.

11.2.14 States should cooperate with each other and actively participate in relevant regional and multilateral fora, such as the WTO in order to ensure equitable, nondiscriminatory trade in fish and fishery products as well as wide adherence to multilaterally agreed fishery conservation measures.

11.2.15 States, aid agencies, multilateral development banks and other relevant international organizations should ensure that their policies and practices related to the promotion of international fish trade and export production do not result in environmental degradation or adversely impact the nutritional rights and needs of people for whom fish is critical to their health and well-being and for whom other comparable sources of food are not readily available or affordable.

11.3 Laws and regulations relating to fish trade

11.3.1 Laws, regulations and administrative procedures applicable to international trade in fish and fishery products should be transparent, as simple as possible, comprehensible and, when appropriate, based on scientific evidence.

11.3.2 States, in accordance with their national laws, should facilitate appropriate consultation with and participation of industry as well as environmental and consumer groups in the development and implementation of laws and regulations related to trade in fish and fishery products.

11.3.3 States should simplify their laws, regulations and administrative procedures applicable to trade in fish and fishery products without jeopardizing their effectiveness.

11.3.4 When a State introduces changes to its legal requirements affecting trade in fish and fishery products with other States, sufficient information and time should be given to allow the States and producers affected to introduce, as appropriate, the changes needed in their processes and procedures. In this connection, consultation with affected States on the time frame for implementation of the changes would be desirable. Due consideration should be given to requests from developing countries for temporary derogations from obligations.

11.3.5 States should periodically review laws and regulations applicable to international trade in fish and fishery products in order to determine whether the conditions which gave rise to their introduction continue to exist.

11.3.6 States should harmonize as far as possible the standards applicable to international trade in fish and fishery products in accordance with relevant internationally recognized provisions.

11.3.7 States should collect, disseminate and exchange timely, accurate and pertinent statistical information on international trade in fish and fishery products through relevant national institutions and international organizations.

11.3.8 States should promptly notify interested States, WTO and other appropriate international organizations on the development of and changes to laws, regulations and administrative procedures applicable to international trade in fish and fishery products.

ARTICLE 12 - FISHERIES RESEARCH

12.1 States should recognize that responsible fisheries requires the availability of a sound scientific basis to assist fisheries managers and other interested parties in making decisions. Therefore, States should ensure that appropriate research is conducted into} all aspects of fisheries including biology, ecology, technology, environmental science, economics, social science, aquaculture and nutritional science. States should -ensure the availability of research facilities and provide appropriate training, staffing and institution building to conduct the research, taking into account the special needs of developing countries.

12.2 States should establish an appropriate institutional framework to determine the applied research which is required and its proper use.

12.3 States should ensure that data generated by research are analyzed, that the results of such analyses are published, respecting confidentiality where appropriate, and distributed in a timely and readily understood fashion, in order that the best scientific evidence is made available as a contribution to fisheries conservation, management and development. In the absence of adequate scientific information, appropriate research should be initiated as soon as possible.

12.4 States should collect reliable and accurate data which are required to assess the status of fisheries and ecosystems, including data on bycatch, discards and waste. Where appropriate, this data should be provided, at an appropriate time and level of aggregation, to relevant States and subregional, regional and global fisheries organizations.

12.5 States should be able to monitor and assess the state of the stocks under their jurisdiction, including the impacts of ecosystem changes resulting from fishing pressure, pollution or habitat alteration. They should also establish the research capacity necessary to assess the effects of climate or environment change on fish stocks and aquatic ecosystems.

12.6 States should support and strengthen national research capabilities to meet acknowledged scientific standards.

12.7 States, as appropriate in cooperation with relevant international organisations, should encourage research to ensure optimum utilization of fishery resources and stimulate the research required to support national policies related to fish as food

12.8 States should conduct research into, and monitor, human food supplies from aquatic sources and the environment from which they are taken and ensure that there is no adverse health impact on consumers. The results of such research should be made publicly available.

12.9 States should ensure that the economic, social, marketing and institutional aspects of fisheries are adequately researched and that comparable data are generated for ongoing monitoring, analysis and policy formulation.

12.10 States should carry out studies on the selectivity of fishing gear, the environmental impact of fishing gear on target species and on the behaviour of target and non-target species in relation to such fishing gear as an aid for management decisions and with a view to minimizing non-utilized catches as well as safeguarding the biodiversity of ecosystems and the aquatic habitat.

12.11 States should ensure that before the commercial introduction of new types of gear, a scientific evaluation of their impact on the fisheries and ecosystems where they will be used should be undertaken. The effects of such gear introductions should be monitored.

12.12 States should investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development.

12.13 States should promote the use of research results as a basis for the setting of management objectives, reference points and performance criteria, as well as for ensuring adequate linkage, between applied research and fisheries management,

12.14 States conducting scientific research activities in waters under the jurisdiction of another State should ensure that their vessels comply with the laws and regulations of that State and international law.

12.15 States should promote the adoption of uniform guidelines governing fisheries research conducted on the high seas.

12.16 States should, where appropriate, support the establishment of mechanisms, including, *inter alia*, the adoption of uniform guidelines, to facilitate research at the subregional or regional level and should encourage the sharing of the results of such research with other regions.

12.17 States, either directly or with the support of relevant international organizations, should develop collaborative technical and research programmes to improve understanding of the biology, environment and status of transboundary aquatic stocks.

12.18 States and relevant international organizations should promote and enhance the research capacities of developing countries, *inter alia*, in the areas of data collection and analysis, information, science and technology, human resource development and provision of research facilities, in order for them to participate effectively in the conservation, management and sustainable use of living aquatic resources.

12.19 Competent national organizations should, where appropriate, render technical and financial support to States upon request and when engaged in research investigations aimed at evaluating stocks which have been previously unfished or very lightly fished.

12.20 Relevant technical and financial international organizations should, upon request, support States in their research efforts, devoting special attention to developing countries, in particular the least developed among them and small island developing countries.

Annex 1**BACKGROUND TO THE ORIGIN AND ELABORATION OF THE CODE**

1. This annex describes the process of elaboration and negotiation of the Code, which led to its submission for adoption to the Twenty-eighth Session of the FAO Conference. It has been felt useful to annex this section as a reference to the origin and the development of the Code and thus reflect the interest generated and the spirit of compromise of all the parties involved in its elaboration. It is hoped that this will contribute to the promotion of the commitment necessary for its implementation
2. At various international fora, concern had long been expressed regarding the clear signs of over-exploitation of important fish stocks, damage to ecosystems, economic losses, and issues affecting fish trade - all of which threatened the long-term sustainability of fisheries and, in turn, harmed the contribution of fisheries to food supply. In discussing the current state and prospects of world fisheries, the Nineteenth Session of the FAO Committee on Fisheries (COFI), held in March 1981, recommended that FAO should develop the concept of responsible fisheries and elaborate a Code of Conduct to this end.
3. Subsequently, the Government of Mexico, in collaboration with FAO, organized an International Conference on Responsible Fishing in Cancún, in May 1992. The Declaration of Cancún endorsed at that Conference further developed the concept of responsible fisheries, stating that "this concept encompasses the sustainable utilization of fisheries resources to harmony with the environment; the use of capture and aquaculture practices which are not harmful to ecosystems, resources or their quality; the incorporation of added value to such products through transformation processes meeting the required sanitary standards; the conduct of commercial practices so as to provide consumers access to good quality products".
4. The Cancún Declaration was brought to the attention of the UNCED Rio Summit in June 1992, which supported the preparation of a Code of Conduct for Responsible Fisheries. The FAO Technical Consultation on High Seas Fishing, held in September 1992, further recommended the elaboration of a Code to address the issues regarding high seas fisheries.
5. The one hundred and Second Session of the FAO Council, held in November 1992, discussed the elaboration of the Code, recommending that priority be given to high seas issues and requested that proposals for the Code be presented to the 1993 session of the Committee on Fisheries.

6. The Twentieth Session of COFI, held in March 1993, examined general principles for such a Code, including the elaboration of guidelines and endorsed a timeframe for the further elaboration of the Code. It also requested FAO to prepare, on a "fast track" basis, as part of the Code, proposals to prevent reflagging of fishing vessels which affect conservation and management measures on the high seas.

7. The further development of the Code of Conduct for Responsible Fisheries was accordingly carried out in consultation and collaboration with relevant United Nations Agencies and other international organizations including non-governmental organizations.

8. In pursuance of the instructions of the FAO Governing Bodies, the draft Code was formulated in such a way as to be consistent with the 1982 United Nations Convention on the Law of the Sea, taking into account the 1992 Declaration of Cancun, the 1992 Rio Declaration and the provisions of Agenda 21 of UNCED, the conclusions and recommendations of the 1992 FAO Technical Consultation on High Seas Fishing, the Strategy endorsed by the 1984 FAO World Conference on Fisheries Management and Development, and other relevant instruments including the outcome of the then ongoing United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks which, in August 1995, adopted an Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Concerning Straddling Fish Stocks and Highly Migratory Fish Stocks.

9. The FAO Conference, at its Twenty-seventh Session in November 1993, adopted the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and recommended that the General Principles of the Code of Conduct for Responsible Fisheries be prepared on a "fast track" in order to orientate formulation of thematic articles. Accordingly, a draft text of the General Principles was reviewed by an informal Working Group of Government nominated experts, which met in Rome in February 1994. A revised draft was widely circulated to all FAO Members and Associate Members as well as intergovernmental and non-governmental organizations. Comments received on the second version of the General Principles were incorporated in the draft Code together with proposals for an alternative text. This document was also the subject of informal consultation with non-governmental organizations on the occasion of the Fourth Session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, held in August 1994 in New York.

10. In order to facilitate consideration of the full text of the draft Code, the Director-General proposed to the Council at its Hundred and Sixth Session in

June 1994, that a Technical Consultation on the Code of Conduct for Responsible Fishing be organized, open to all FAO Members, interested non-members, intergovernmental and non-governmental organizations, in order to provide an opportunity for the widest involvement of all concerned parties at an early stage of its elaboration.

11. This Technical Consultation took place in Rome from 26 September to 5 October 1994 and a draft for the entire Code and a first draft of technical guidelines to support most of the Thematic Articles of the Code were presented. Following a thorough review of all the Articles of the complete draft Code of Conduct, an Alternative Secretariat Draft was then prepared on the basis of comments made during the discussions in plenary and specific drafting changes submitted in writing during the Consultation.

12. The Consultation was able to review also in detail an alternative draft for three of the six Thematic Articles of the Code, i.e., Article 9 "Integration of Fisheries into Coastal Area Management", Article 6 "Fisheries Management", Article 7 "Fishing Operations", except for those principles which were likely to be affected by the outcome of the ongoing UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. A short Administrative Report was prepared and presented to the FAO Council and to COFI.

13. The Technical Consultation proposed to the Council at its Hundred and Seventh Session, 15-24 November 1994, that the final wording of those principles dealing mainly with high seas issues be left in abeyance pending the outcome of the UN Conference. The Council generally endorsed the proposed procedure, noting that following discussions at the next session of COFI, a final draft of the Code would be submitted to the FAO Council in June 1995 which would then decide upon the necessity for a Technical Committee to meet in parallel to that Session of the Council in order to elaborate further the detailed provisions of the Code if required.

14. Based upon the substantial comments and detailed suggestions received at the Technical Consultation, the Secretariat elaborated a revised draft of the Code of Conduct for Responsible Fisheries, which was submitted to the Twenty-first Session of the Committee on Fisheries, held from 10 to 15 March 1995.

15. The Committee on Fisheries was also informed that the UN Conference was expected to conclude its work in August 1995. It was proposed that principles left in abeyance in the draft text of the Code could then be reconciled with the language agreed upon at the UN Conference in accordance with a mechanism to be decided upon by the Committee and the Council, before

submission of the complete Code for its adoption at the Twenty-eighth Session of the FAO Conference in October 1995.

16. The Committee was informed of the various steps the Secretariat had undertaken in preparing the draft Code of Conduct. The Committee established an open-ended Working Group in order to review the draft text of the Code. The Working Group, which met from 10 to 14 March 1995, undertook a detailed revision of the draft Code in continuation of the work carried out by the Technical Consultation. It completed and approved the text of Articles 8 to 11. In view of the time constraints, the Working Group provided directives to the Secretariat to redraft Articles 1 to 5. It was also recommended that the elements of research and cooperation as well as aquaculture be included in Article 5, General Principles, to reflect issues developed in the Thematic Articles of the Code.

17. The Committee supported the proposal endorsed by the Hundred and Seventh Session of the Council oil mechanism; to finalize the Code. The final wording of those principles dealing mainly With issues concerning straddling fish stocks and highly migratory fish stocks, which formed only a small part of the Code, should be re-examined in the light of the outcome of the UN Conference. The Group also recommended that once agreement was reached on the substance, it would be necessary to harmonize legal, technical and idiomatic aspects of the Code, in order to facilitate its final approval.

18. The Report of tile open-ended Working Group was presented to a Ministerial Meeting on Fisheries, held on 14 and 15 March 1995, in conjunction with the COFI Session. The Rome Consensus oil World Fisheries emanating from this meeting urged that "Governments and international organizations take prompt action to complete the International Code of Conduct for Responsible Fisheries with a view to submitting the final text to the FAO Conference in October 1995"

19. The Hundred and Eighth Session of the Council was presented with a revised version of the Code of Conduct. The Council established an open-ended Technical Committee, which held its First Session from 5 to 9 June 1995, with a broad regional representation of members and observers. A number of intergovernmental and non-governmental organizations also participated.

20. The Council was informed by the Technical Committee that it had undertaken a thorough review of Articles 1 to 5 including the Introduction. It had also examined, amended and approved Articles 8 to 11. The Council was also informed that the Committee had started the revision of Article 6.

21. The Council approved the work carried out by the Technical Committee and endorsed its recommendation for a Second Session to be held from 25 to 29 September 1995 to complete the revision of the Code once the Secretariat had harmonized the text linguistically and juridically, taking into account the outcome of the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

22. A revised version of the Code as approved by the Open-ended Technical Committee at its First Session (5-9 June 1995) and endorsed by the One Hundred and Eighth Session of the Council was issued, both as a Conference document (C 95/20) and as a working paper for the Second Session of the Technical Committee. Elements pending agreement were clearly identified.

23. In order to facilitate the finalization of the entire Code, the Secretariat prepared the document "Secretariat Proposals for Article 6, Fisheries Management, and Article 7, Fishing Operations, of the Code of Conduct for Responsible Fisheries", taking into account the Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted by the UN Conference in August 1995. The Secretariat also completed proposals for the harmonization of the text on legal and linguistic aspects and made this available to the Committee in three languages for the session (English, French and Spanish).

24. A Second Session of the Open-ended Technical Committee of the Council met from 25 to 29 September 1995, with a wide representation of regions and interested organizations. The Committee, working in a full spirit of collaboration, successfully concluded its mandate, finalizing and endorsing all Articles and the Code as a whole. The Technical Committee agreed that the negotiations of the text of the Code were finalized. An Open-ended Informal Group on Language Harmonization held an additional session and, together with the Secretariat, completed the harmonization on the basis of the text as adopted: at the closing session. The Technical Committee instructed the Secretariat to already submit the finalized version as a revised Conference document to the Hundred and Ninth Session of the Council and to the Twenty-eighth Session of the Conference for its adoption. The Council endorsed the Code of Conduct as finalized by the Technical Committee. The Secretariat was requested to prepare the required draft resolution for the Conference, including also a call on countries to ratify, as a matter of urgency, the Compliance Agreement adopted at the last session of the Conference. The Twenty-eighth Session of the Conference adopted on 31 October 1995, by consensus, the Code of Conduct for Responsible Fisheries and the respective Resolution shown in Annex 2.

Annex 2**RESOLUTION****THE CONFERENCE**

Recognizing the vital role of fisheries in world food security, and economic and social development, as well as the need to ensure the sustainability of the living aquatic resources and their environment for present and future generations,

Recalling that the Committee on Fisheries on 19 March 1991 recommended the development of the concept of responsible fishing and the possible formulation of an instrument on the matter.

Considering that the Declaration of Cancún, which emanated from the Inter-national Conference on Responsible Fisheries of May 1992, organized by the Government of Mexico in collaboration with FAO, had called for the preparation of a Code of Conduct on Responsible Fisheries.

Bearing in mind that with the entry into force of the United Nations Convention on the Law of the Sea, 1982, and the adoption 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, as was anticipated in the 1992 Rio Declaration and the provisions of Agenda 21 of UNCED, there is an increased need for subregional and regional cooperation, and that significant responsibilities are placed upon FAO in accordance with its mandate,

Recalling further that the Conference in 1993 adopted the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the high Seas, and that this Agreement would constitute an integral part of the Code of Conduct,

Noting with satisfaction that FAO, in accordance with the decisions of its Governing Bodies, had organized a series of technical meetings to formulate the Code of Conduct and that these meetings have resulted in agreement being reached on the text of the Code of Conduct for Responsible Fisheries,

Acknowledging that the Rome Consensus on World Fisheries, which emanated from the Ministerial Meeting on Fisheries of 14-15 March 1995, urged governments and international organizations to respond effectively to the current fisheries situation, *inter alia*, by completing the Code of Conduct for Responsible

Fisheries and to consider adopting the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas:

1. Decides to adopt the Code of Conduct for Responsible Fisheries;
2. Calls on States, International Organizations, whether Governmental or Non-Governmental, and all those involved in fisheries to collaborate in the fulfillment and implementation of the objectives and principles contained in this Code;
3. Urges that special requirements of developing countries be taken into account in implementing the provisions of this Code;
4. Requests FAO to make provision in the Programme of Work and Budget for providing advice to developing countries in implementing this Code and for the elaboration of an Interregional Assistance Programme for external assistance aimed at supporting implementation of the Code;
5. Further requests FAO, in collaboration with members and interested relevant organizations, to elaborate, as appropriate, technical guidelines in support of the implementation of the Code;
6. Calls upon FAO to monitor and report on the implementation of the Code and its effects on fisheries, including action taken under other instruments and resolutions by UN organizations and, in particular, the resolutions adopted by the General Assembly to give effect to the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks leading to 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;
7. Urges FAO to strengthen Regional Fisheries Bodies in order to deal more effectively with fisheries conservation and management issues in support of subregional, regional and global cooperation and coordination in fisheries.

This publication includes the text of the Code of Conduct for Responsible Fisheries, Background to the Origin and Elaboration of the Code, and Resolution 4/95 as adopted by the Twenty-eighth Session of the FAO Conference on 31 October 1995.

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INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING



Photo credit: Mr Austin Jones, Director of the Surveillance Operations Coordinating Unit, Banjul, The Gambia

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
Rome, 2001

PREPARATION OF THIS DOCUMENT

This document contains the text of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).

The **IPOA-IUU** was developed as a voluntary instrument, within the framework of the Code of Conduct for Responsible Fisheries, in response to a call from the Twenty-third Session of the Committee on Fisheries (COFI). A draft text for an IPOA-IUU was elaborated at an Expert Consultation in Sydney, Australia, in May 2000. This document formed the basis for negotiations at Technical Consultations that were held at FAO Headquarters, Rome, in October 2000 and February 2001. The IPOA-IUU was adopted by consensus at the Twenty-fourth Session of COFI on 2 March 2001 and endorsed by the Hundred and Twentieth Session of the FAO Council on 23 June 2001.

The Governments of Australia, Canada and the European Commission contributed financially to the preparatory activities leading to the development of the IPOA-IUU.

FAO.
International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing.
Rome, FAO. 2001. 24p.

ABSTRACT

The **IPOA-IUU** is a voluntary instrument that applies to all States and entities and to all fishers. Following the IPOA's introduction, the nature and scope of IUU fishing is addressed. This is followed by the IPOA's objective and principles and the implementation of measures to prevent, deter and eliminate IUU fishing. These measures focus on all State responsibilities, flag State responsibilities, coastal State measures, port State measures, internationally agreed market-related measures, research and regional fisheries management organizations. Special requirements of developing countries are then considered, followed by reporting requirements and the role of FAO.

I. INTRODUCTION

II. NATURE AND SCOPE OF IUU FISHING AND THE INTERNATIONAL PLAN OF ACTION

III. OBJECTIVE AND PRINCIPLES

IV. IMPLEMENTATION OF MEASURES TO PREVENT, DETER AND ELIMINATE IUU FISHING

V. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

VI. REPORTING

VII. ROLE OF FAO

I. INTRODUCTION

1. In the context of the Code of Conduct for Responsible Fisheries and its overall objective of sustainable fisheries, the issue of illegal, unreported and unregulated (IUU) fishing in world fisheries is of serious and increasing concern. IUU fishing undermines efforts to conserve and manage fish stocks in all capture fisheries. When confronted with IUU fishing, national and regional fisheries management organizations can fail to achieve management goals. This situation leads to the loss of both short and long-term social and economic opportunities and to negative effects on food security and environmental protection. IUU fishing

can lead to the collapse of a fishery or seriously impair efforts to rebuild stocks that have already been depleted. Existing international instruments addressing IUU fishing have not been effective due to a lack of political will, priority, capacity and resources to ratify or accede to and implement them.

2. The Twenty-third Session of the FAO Committee on Fisheries (COFI) in February 1999 addressed the need to prevent, deter and eliminate IUU fishing. The Committee was concerned about information presented indicating increases in IUU fishing, including fishing vessels flying "flags of convenience". Shortly afterwards, an FAO Ministerial Meeting on Fisheries in March 1999 declared that, without prejudice to the rights and obligations of States under international law, FAO "will develop a global plan of action to deal effectively with all forms of illegal, unregulated and unreported fishing including fishing vessels flying "flags of convenience" through coordinated efforts by States, FAO, relevant regional fisheries management bodies and other relevant international agencies such as the International Maritime Organization (IMO), as provided in Article IV of the Code of Conduct. The Government of Australia, in cooperation with FAO, organized an Expert Consultation on Illegal, Unreported and Unregulated Fishing in Sydney, Australia, from 15 to 19 May 2000. Subsequently, an FAO Technical Consultation on Illegal, Unreported and Unregulated Fishing was held in Rome from 2 to 6 October 2000 and a further Technical Consultation was held in Rome from 22 to 23 February 2001. The draft International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was adopted by the Consultation on 23 February 2001 with a request that the report be submitted to the Twenty-fourth Session of COFI for consideration and eventual adoption. COFI approved the International Plan of Action, by consensus, on 2 March 2001. In doing so, the Committee urged all Members to take the necessary steps to effectively implement the International Plan of Action.

II. NATURE AND SCOPE OF IUU FISHING AND THE INTERNATIONAL PLAN OF ACTION

3. In this document:

3.1 Illegal fishing refers to activities:

3.1.1 conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

3.1.2 conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

3.1.3 in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

3.2 Unreported fishing refers to fishing activities:

3.2.1 which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or

3.2.2 undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

3.3 Unregulated fishing refers to fishing activities:

3.3.1 in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that

organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or

3.3.2 in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

3.4 Notwithstanding paragraph 3.3, certain unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under the International Plan of Action` (IPOA).

4. The IPOA is voluntary. It has been elaborated within the framework of the FAO Code of Conduct for Responsible Fisheries as envisaged by Article 2 (d).

5. The FAO Code of Conduct for Responsible Fisheries, in particular Articles 1.1, 1.2, 3.1, and 3.2 applies to the interpretation and application of this IPOA and its relationship with other international instruments. The IPOA is also directed as appropriate towards fishing entities as referred to in the Code of Conduct. The IPOA responds to fisheries specific issues and nothing in it prejudices the positions of States in other fora.

6. In this document:

- a. the reference to States includes regional economic integration organizations in matters within their competence;
- b. the term "regional" includes sub-regional, as appropriate;
- c. the term "regional fisheries management organization" means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish fishery conservation and management measures;
- d. the term "conservation and management measures" means measures to conserve one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law;
- e. the term "1982 UN Convention" refers to the United Nations Convention on the Law of the Sea of 10 December 1982;
- f. the term "1993 FAO Compliance Agreement" refers to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved by the FAO Conference on 24 November 1993.
- g. the term "1995 UN Fish Stocks Agreement" refers to the Agreement for the Implementation 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; and
- h. the term "Code of Conduct" refers to the FAO Code of Conduct for Responsible Fisheries.

7. This document is a further commitment by all States to implement the Code of Conduct.

III. OBJECTIVE AND PRINCIPLES

8. The objective of the IPOA is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations established in accordance with international law.

9. The IPOA to prevent, deter and eliminate IUU fishing incorporates the following principles and strategies. Due consideration should be given to the special requirements of developing countries in accordance with Article 5 of the Code of Conduct.

9.1 Participation and coordination: To be fully effective, the IPOA should be implemented by all States either directly, in cooperation with other States, or indirectly through relevant regional fisheries management organizations or through FAO and other appropriate international organizations. An important element in successful implementation will be close and effective coordination and consultation, and the sharing of information to reduce the incidence of IUU fishing, among States and relevant regional and global organizations. The full participation of stakeholders in combating IUU fishing, including industry, fishing communities, and non-governmental organizations, should be encouraged.

9.2 Phased implementation: Measures to prevent, deter and eliminate IUU fishing should be based on the earliest possible phased implementation of national plans of action, and regional and global action in accordance with the IPOA.

9.3 Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the flag State and using all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where appropriate, and to cooperate in order to ensure that measures are applied in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing .

9.4 Conservation: Measures to prevent, deter and eliminate IUU fishing should be consistent with the conservation and long-term sustainable use of fish stocks and the protection of the environment.

9.5 Transparency: The IPOA should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct.

9.6 Non-discrimination: The IPOA should be developed and applied without discrimination in form or in fact against any State or its fishing vessels.

IV. IMPLEMENTATION OF MEASURES TO PREVENT, DETER AND ELIMINATE IUU FISHING

ALL STATE RESPONSIBILITIES

International Instruments

10. States should give full effect to relevant norms of international law, in particular as reflected in the 1982 UN Convention, in order to prevent, deter and eliminate IUU fishing.

11. States are encouraged, as a matter of priority, to ratify, accept or accede to, as appropriate, the 1982 UN Convention, the 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement. Those States that have not ratified, accepted or acceded to these relevant international instruments should not act in a manner inconsistent with these instruments.

12. States should implement fully and effectively all relevant international fisheries instruments which they have ratified, accepted or acceded to.

13. Nothing in the IPOA affects, or should be interpreted as affecting, the rights and obligations of States under international law. Nothing in the IPOA affects, or should be interpreted as affecting, the rights and obligations contained in the 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, for States parties to those instruments.

14. States should fully and effectively implement the Code of Conduct and its associated International Plans of Action.

15. States whose nationals fish on the high seas in fisheries not regulated by a relevant regional fisheries management organization should fully implement their obligations under Part VII of the 1982 UN Convention to take measures with respect to their nationals as may be necessary for the conservation of the living resources of the high seas.

National Legislation

Legislation

16. National legislation should address in an effective manner all aspects of IUU fishing.

17. National legislation should address, *inter alia*, evidentiary standards and admissibility including, as appropriate, the use of electronic evidence and new technologies.

State Control over Nationals

18. In the light of relevant provisions of the 1982 UN Convention, and without prejudice to the primary responsibility of the flag State on the high seas, each State should, to the greatest extent possible, take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing. All States should cooperate to identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing.

19. States should discourage their nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities.

Vessels without Nationality

20. States should take measures consistent with international law in relation to vessels without nationality on the high seas involved in IUU fishing.

Sanctions

21. States should ensure that sanctions for IUU fishing by vessels and, to the greatest extent possible, nationals under its jurisdiction are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing. This may include the adoption of a civil sanction regime based on an administrative penalty scheme. States should ensure the consistent and transparent application of sanctions.

Non Cooperating States

22. All possible steps should be taken, consistent with international law, to prevent, deter and eliminate the activities of non-cooperating States to a relevant regional fisheries management organization which engage in IUU fishing.

Economic Incentives

23. States should, to the extent possible in their national law, avoid conferring economic support, including subsidies, to companies, vessels or persons that are involved in IUU fishing.

Monitoring, Control and Surveillance

24. States should undertake comprehensive and effective monitoring, control and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination, including by:

24.1 developing and implementing schemes for access to waters and resources, including authorization schemes for vessels;

24.2 maintaining records of all vessels and their current owners and operators authorized to undertake fishing subject to their jurisdiction;

24.3 implementing, where appropriate, a vessel monitoring system (VMS), in accordance with the relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry VMS on board;

24.4 implementing, where appropriate, observer programmes in accordance with relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry observers on board;

24.5 providing training and education to all persons involved in MCS operations;

24.6 planning, funding and undertaking MCS operations in a manner that will maximize their ability to prevent, deter and eliminate IUU fishing;

24.7 promoting industry knowledge and understanding of the need for, and their cooperative participation in, MCS activities to prevent, deter and eliminate IUU fishing;

24.8 promoting knowledge and understanding of MCS issues within national judicial systems;

24.9 establishing and maintaining systems for the acquisition, storage and dissemination of MCS data, taking into account applicable confidentiality requirements;

24.10 ensuring effective implementation of national and, where appropriate, internationally agreed boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and of inspection officers, and noting that such regimes are provided for in certain international agreements, such as the 1995 UN Fish Stocks Agreement, and only apply to the parties to those agreements.

National Plans of Action

25. States should develop and implement, as soon as possible but not later than three years after the adoption of the IPOA, national plans of action to further achieve the objectives of the IPOA and give full effect to its provisions as an integral part of their fisheries management programmes and budgets. These plans should also include, as appropriate, actions to implement initiatives adopted by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing. In doing so, States should encourage the full participation and engagement of all interested stakeholders, including industry, fishing communities and non-governmental organizations.

26. At least every four years after the adoption of their national plans of action, States should review the implementation of these plans for the purpose of identifying cost-effective strategies to increase their effectiveness and to take into account their reporting obligations to FAO under Part VI of the IPOA.

27. States should ensure that national efforts to prevent, deter and eliminate IUU fishing are internally coordinated.

Cooperation between States

28. States should coordinate their activities and cooperate directly, and as appropriate through relevant regional fisheries management organizations, in preventing, deterring and eliminating IUU fishing. In particular, States should:

28.1 exchange data or information, preferably in standardized format, from records of vessels authorized by them to fish, in a manner consistent with any applicable confidentiality requirements;

28.2 cooperate in effective acquisition, management and verification of all relevant data and information from fishing;

28.3 allow and enable their respective MCS practitioners or enforcement personnel to cooperate in the investigation of IUU fishing, and to this end States should collect and maintain data and information relating to such fishing;

28.4 cooperate in transferring expertise and technology;

28.5 cooperate to make policies and measures compatible;

28.6 develop cooperative mechanisms that allow, *inter alia*, rapid responses to IUU fishing; and

28.7 cooperate in monitoring, control and surveillance, including through international agreements.

29. In the light of Article VI of the 1993 FAO Compliance Agreement, flag States should make available to FAO and, as appropriate, to other States and relevant regional or international organizations, information about vessels deleted from their records or whose authorization to fish has been cancelled and to the extent possible, the reasons therefor.

30. In order to facilitate cooperation and exchange of information, each State and regional or international organization should nominate and publicize initial formal contact points.

31. Flag States should consider entering into agreements or arrangements with other States and otherwise cooperate for the enforcement of applicable laws and conservation and management measures or provisions adopted at a national, regional or global level.

Publicity

32. States should publicize widely, including through cooperation with other States, full details of IUU fishing and actions taken to eliminate it, in a manner consistent with any applicable confidentiality requirements.

Technical Capacity and Resources

33. States should endeavour to make available the technical capacity and resources which are needed to implement the IPOA. This should include, where appropriate, the establishment of special funds at the national, regional or global level. In this respect, international cooperation should play an important role.

FLAG STATE RESPONSIBILITIES

Fishing Vessel Registration

34. States should ensure that fishing vessels entitled to fly their flag do not engage in or support IUU fishing.

35. A flag State should ensure, before it registers a fishing vessel, that it can exercise its responsibility to ensure that the vessel does not engage in IUU fishing.

36. Flag States should avoid flagging vessels with a history of non-compliance except where:

36.1 the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or

36.2 having taken into account all relevant facts, the flag State determines that flagging the vessel would not result in IUU fishing.

37. All States involved in a chartering arrangement, including flag States and other States that accept such an arrangement, should, within the limits of their respective jurisdictions, take measures to ensure that chartered vessels do not engage in IUU fishing.

38. Flag States should deter vessels from reflagging for the purposes of non-compliance with conservation and management measures or provisions adopted at a national, regional or global level. To the extent practicable, the actions and standards flag States adopt should be uniform to avoid creating incentives for vessel owners to reflag their vessels to other States.

39. States should take all practicable steps, including denial to a vessel of an authorization to fish and the entitlement to fly that State's flag, to prevent "flag hopping"; that is to say, the practice of repeated and rapid changes of a vessel's flag for the purposes of circumventing conservation and management measures or provisions adopted at a national, regional or global level or of facilitating non-compliance with such measures or provisions.

40. Although the functions of registration of a vessel and issuing of an authorization to fish are separate, flag States should consider conducting these functions in a manner which ensures each gives appropriate consideration to the other. Flag States should ensure appropriate links between the operation of their vessel registers and the record those States keep of their fishing vessels. Where such functions are not undertaken by one agency, States should ensure sufficient cooperation and information sharing between the agencies responsible for those functions.

41. A Flag State should consider making its decision to register a fishing vessel conditional upon its being prepared to provide to the vessel an authorization to fish in waters under its jurisdiction, or on the high seas, or conditional upon an authorization to fish being issued by a coastal State to the vessel when it is under the control of that flag State.

Record of Fishing Vessels

42. Each flag State should maintain a record of fishing vessels entitled to fly its flag. Each flag State's record of fishing vessels should include, for vessels authorized to fish on the high seas, all the information set out in paragraphs 1 and 2 of Article VI of the 1993 FAO Compliance Agreement, and may also include, *inter alia*:

42.1 the previous names, if any and if known;

42.2 name, address and nationality of the natural or legal person in whose name the vessel is registered ;

42.3 name, street address, mailing address and nationality of the natural or legal persons responsible for managing the operations of the vessel;

42.4 name, street address, mailing address and nationality of natural or legal persons with beneficial ownership of the vessel;

42.5 name and ownership history of the vessel, and, where this is known, the history of non-compliance by that vessel, in accordance with national laws, with conservation and management measures or provisions adopted at a national, regional or global level; and

42.6 vessel dimensions, and where appropriate, a photograph, taken at the time of registration or at the conclusion of any more recent structural alterations, showing a side profile view of the vessel.

43. Flag States may also require the inclusion of the information in paragraph 42 in their record of fishing vessels that are not authorized to fish on the high seas.

Authorization to Fish

44. States should adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with international law for the high seas , in particular the rights and duties set out in articles 116 and 117 of the 1982 UN Convention, or in conformity with national legislation within areas of national jurisdiction.

45. A flag State should ensure that each of the vessels entitled to fly its flag fishing in waters outside its sovereignty or jurisdiction holds a valid authorization to fish issued by that flag State. Where a coastal State issues an authorization to fish to a vessel, that coastal State should ensure that no fishing in its waters occurs without an authorization to fish issued by the flag State of the vessel.

46. Vessels should have an authorization to fish and where required carry it on board. Each State's authorization should include, but need not be limited to:

46.1 the name of the vessel, and, where appropriate, the natural or legal person authorized to fish;

46.2 the areas, scope and duration of the authorization to fish; and

46.3 the species, fishing gear authorized, and where appropriate, other applicable management measures.

47. Conditions under which an authorization is issued may also include, where required:

47.1 vessel monitoring systems;

47.2 catch reporting conditions, such as:

47.2.1 time series of catch and effort statistics by vessel;

47.2.2 total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery period (nominal weight is defined as the live weight equivalent of the catch);

- 47.2.3 discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
- 47.2.4 effort statistics appropriate to each fishing method; and
- 47.2.5 fishing location, date and time fished and other statistics on fishing operations.
- 47.3 reporting and other conditions for transshipping, where transshipping is permitted;
- 47.4 observer coverage;
- 47.5 maintenance of fishing and related log books;
- 47.6 navigational equipment to ensure compliance with boundaries and in relation to restricted areas;
- 47.7 compliance with applicable international conventions and national laws and regulations in relation to maritime safety, protection of the marine environment, and conservation and management measures or provisions adopted at a national, regional or global level;
- 47.8 marking of its fishing vessels in accordance with internationally recognized standards, such as the FAO Standard Specification and Guidelines for the Marking and Identification of Fishing Vessels. Vessels' fishing gear should similarly be marked in accordance with internationally recognized standards;
- 47.9 where appropriate, compliance with other aspects of fisheries arrangements applicable to the flag State; and
- 47.10 the vessel having a unique, internationally recognized identification number, wherever possible, that enables it to be identified regardless of changes in registration or name over time.
48. Flag States should ensure that their fishing, transport and support vessels do not support or engage in IUU fishing. To this end, flag States should ensure that none of their vessels re-supply fishing vessels engaged in such activities or transship fish to or from these vessels. This paragraph is without prejudice to the taking of appropriate action, as necessary, for humanitarian purposes, including the safety of crew members.
49. Flag States should ensure that, to the greatest extent possible, all of their fishing, transport and support vessels involved in transshipment at sea have a prior authorization to transship issued by the flag State, and report to the national fisheries administration or other designated institution:
- 49.1 the date and location of all of their transshipments of fish at sea;
- 49.2 the weight by species and catch area of the catch transshipped;
- 49.3 the name, registration, flag and other information related to the identification of the vessels involved in the transshipment; and
- 49.4 the port of landing of the transshipped catch.
50. Flag States should make information from catch and transshipment reports available, aggregated according to areas and species, in a full, timely and regular manner and, as appropriate, to relevant national, regional and international organizations, including FAO, taking into account applicable confidentiality requirements.

COASTAL STATE MEASURES

51. In the exercise of the sovereign rights of coastal States for exploring and exploiting, conserving and managing the living marine resources under their jurisdiction, in conformity with the 1982 UN Convention and international law, each coastal State should implement measures to prevent, deter and eliminate IUU fishing in the exclusive economic zone. Among the measures which the coastal State should consider, consistent with national legislation and international law, and to the extent practicable and appropriate, are:

51.1 effective monitoring, control and surveillance of fishing activities in the exclusive economic zone;

51.2 cooperation and exchange of information with other States, where appropriate, including neighbouring coastal States and with regional fisheries management organizations;

51.3 to ensure that no vessel undertakes fishing activities within its waters without a valid authorization to fish issued by that coastal State;

51.4 to ensure that an authorization to fish is issued only if the vessel concerned is entered on a record of vessels;

51.5 to ensure that each vessel fishing in its waters maintains a logbook recording its fishing activities where appropriate;

51.6 to ensure that at-sea transshipment and processing of fish and fish products in coastal State waters are authorized by that coastal State, or conducted in conformity with appropriate management regulations;

51.7 regulation of fishing access to its waters in a manner which will help to prevent, deter and eliminate IUU fishing; and

51.8 avoiding licensing a vessel to fish in its waters if that particular vessel has a history of IUU fishing, taking into account the provisions of paragraph 36.

PORT STATE MEASURES

52. States should use measures, in accordance with international law, for port State control of fishing vessels in order to prevent, deter and eliminate IUU fishing. Such measures should be implemented in a fair, transparent and non-discriminatory manner.

53. When used in paragraphs 52 to 64, port access means admission for foreign fishing vessels to ports or offshore terminals for the purpose of, *inter alia*, refuelling, re-supplying, transshipping and landing, without prejudice to the sovereignty of a coastal State in accordance with its national law and article 25.2 of the 1982 UN Convention and other relevant international law.

54. Notwithstanding paragraphs 52, 53 and 55; a vessel should be provided port access, in accordance with international law, for reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

55. Prior to allowing a vessel port access, States should require fishing vessels and vessels involved in fishing related activities seeking permission to enter their ports to provide reasonable advance notice of their entry into port, a copy of their authorization to fish, details of their fishing trip and quantities of fish on board, with due regard to confidentiality requirements, in order to ascertain whether the vessel may have engaged in, or supported, IUU fishing.

56. Where a port State has clear evidence that a vessel having been granted access to its ports has engaged in IUU fishing activity, the port State should not allow the vessel to land or transship fish in its ports, and should report the matter to the flag State of the vessel.

57. States should publicize ports to which foreign flagged vessels may be permitted admission and should ensure that these ports have the capacity to conduct inspections.

58. In the exercise of their right to inspect fishing vessels, port States should collect the following information and remit it to the flag State and, where appropriate, the relevant regional fisheries management organization:

58.1 the flag State of the vessel and identification details;

58.2 name, nationality, and qualifications of the master and the fishing master;

58.3 fishing gear;

58.4 catch on board, including origin, species, form, and quantity;

58.5 where appropriate, other information required by relevant regional fisheries management organizations or other international agreements; and

58.6 total landed and transshipped catch.

59. If, in the course of an inspection, it is found that there are reasonable grounds to suspect that the vessel has engaged in or supported IUU fishing in areas beyond the jurisdiction of the port State, the port State should, in addition to any other actions it may take consistent with international law, immediately report the matter to the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organization. The port State may take other action with the consent of, or upon the request of, the flag State.

60. In applying paragraphs 58 and 59, States should safeguard the confidentiality of information collected, in accordance with their national laws.

61. States should establish and publicize a national strategy and procedures for port State control of vessels involved in fishing and related activities, including training, technical support, qualification requirements and general operating guidelines for port State control officers. States should also consider capacity-building needs in the development and implementation of this strategy.

62. States should cooperate, as appropriate, bilaterally, multilaterally and within relevant regional fisheries management organizations, to develop compatible measures for port State control of fishing vessels. Such measures should deal with the information to be collected by port States, procedures for information collection, and measures for dealing with suspected infringements by the vessel of measures adopted under these national, regional or international systems.

63. States should consider developing within relevant regional fisheries management organizations port State measures building on the presumption that fishing vessels entitled to fly the flag of States not parties to a regional fisheries management organization and which have not agreed to cooperate with that regional fisheries management organization, which are identified as being engaged in fishing activities in the area of that particular organization, may be engaging in IUU fishing. Such port State measures may prohibit landings and transshipment of catch unless the identified vessel can establish that the catch was taken in a manner consistent with those conservation and management measures. The identification of the vessels by

the regional fisheries management organization should be made through agreed procedures in a fair, transparent and non-discriminatory manner.

64. States should enhance cooperation, including by the flow of relevant information, among and between relevant regional fisheries management organizations and States on port State controls.

INTERNATIONALLY AGREED MARKET-RELATED MEASURES

65. The measures in paragraphs 66 to 76 are to be implemented in a manner which recognizes the right of States to trade in fish and fishery products harvested in a sustainable manner and should be interpreted and applied in accordance with the principles, rights and obligations established in the World Trade Organisation, and implemented in a fair, transparent and non-discriminatory manner.

66. States should take all steps necessary, consistent with international law, to prevent fish caught by vessels identified by the relevant regional fisheries management organization to have been engaged in IUU fishing being traded or imported into their territories. The identification of the vessels by the regional fisheries management organization should be made through agreed procedures in a fair, transparent and non-discriminatory manner. Trade-related measures should be adopted and implemented in accordance with international law, including principles, rights and obligations established in WTO Agreements, and implemented in a fair, transparent and non-discriminatory manner. Trade-related measures should only be used in exceptional circumstances, where other measures have proven unsuccessful to prevent, deter and eliminate IUU fishing, and only after prior consultation with interested States. Unilateral trade-related measures should be avoided.

67. States should ensure that measures on international trade in fish and fishery products are transparent, based on scientific evidence, where applicable, and are in accordance with internationally agreed rules.

68. States should cooperate, including through relevant global and regional fisheries management organizations, to adopt appropriate multilaterally agreed trade-related measures, consistent with the WTO, that may be necessary to prevent, deter and eliminate IUU fishing for specific fish stocks or species. Multilateral trade-related measures envisaged in regional fisheries management organizations may be used to support cooperative efforts to ensure that trade in specific fish and fish products does not in any way encourage IUU fishing or otherwise undermine the effectiveness of conservation and management measures which are consistent with the 1982 UN Convention.

69. Trade-related measures to reduce or eliminate trade in fish and fish products derived from IUU fishing could include the adoption of multilateral catch documentation and certification requirements, as well as other appropriate multilaterally-agreed measures such as import and export controls or prohibitions. Such measures should be adopted in a fair, transparent and non-discriminatory manner. When such measures are adopted, States should support their consistent and effective implementation.

70. Stock or species-specific trade-related measures may be necessary to reduce or eliminate the economic incentive for vessels to engage in IUU fishing.

71. States should take steps to improve the transparency of their markets to allow the traceability of fish or fish products.

72. States, when requested by an interested State, should assist any State in deterring trade in fish and fish products illegally harvested in its jurisdiction. Assistance should be given in accordance with terms agreed by both States and fully respecting the jurisdiction of the State requesting assistance.

73. States should take measures to ensure that their importers, transshippers, buyers, consumers, equipment suppliers, bankers, insurers, other services suppliers and the public are aware of the detrimental effects of

doing business with vessels identified as engaged in IUU fishing, whether by the State under whose jurisdiction the vessel is operating or by the relevant regional fisheries management organizations in accordance with its agreed procedures, and should consider measures to deter such business. Such measures could include, to the extent possible under national law, legislation that makes it a violation to conduct such business or to trade in fish or fish products derived from IUU fishing. All identifications of vessels engaged in IUU fishing should be made in a fair, transparent and non-discriminatory manner.

74. States should take measures to ensure that their fishers are aware of the detrimental effects of doing business with importers, transshippers, buyers, consumers, equipment suppliers, bankers, insurers and other services suppliers identified as doing business with vessels identified as engaged in IUU fishing, whether by the State under whose jurisdiction the vessel is operating or by the relevant regional fisheries management organization in accordance with its agreed procedures, and should consider measures to deter such business. Such measures could include, to the extent possible under national law, legislation that makes it a violation to conduct such business or to trade in fish or fish products derived from IUU fishing. All identifications of vessels engaged in IUU fishing should be made in a fair, transparent and non-discriminatory manner.

75. States should work towards using the Harmonized Commodity Description and Coding System for fish and fisheries products in order to help promote the implementation of the IPOA.

76. Certification and documentation requirements should be standardized to the extent feasible, and electronic schemes developed where possible, to ensure their effectiveness, reduce opportunities for fraud, and avoid unnecessary burdens on trade.

RESEARCH

77. States should encourage scientific research on methods of identifying fish species from samples of processed products. FAO should facilitate the establishment of a network of databases of genetic and other markers used to identify fish species from processed product, including the ability to identify the stock of origin where possible.

REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS

78. States should ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant regional fisheries management organization and by which they are bound. States should cooperate in the establishment of such organizations in regions where none currently exist.

79. As the cooperation of all relevant States is important for the success of measures taken by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing, States which are not members of a relevant regional fisheries management organization are not discharged from their obligation to cooperate, in accordance with their international obligations, with that regional fisheries management organization. To that end, States should give effect to their duty to cooperate by agreeing to apply the conservation and management measures established by that regional fisheries management organization, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

80. States, acting through relevant regional fisheries management organizations, should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter, and eliminate IUU fishing. Consideration should be given to including the following measures:

80.1 institutional strengthening, as appropriate, of relevant regional fisheries management organizations with a view to enhancing their capacity to prevent, deter and eliminate IUU fishing;

80.2 development of compliance measures in conformity with international law;

80.3 development and implementation of comprehensive arrangements for mandatory reporting;

80.4 establishment of and cooperation in the exchange of information on vessels engaged in or supporting IUU fishing;

80.5 development and maintenance of records of vessels fishing in the area of competence of a relevant regional fisheries management organization, including both those authorized to fish and those engaged in or supporting IUU fishing;

80.6 development of methods of compiling and using trade information to monitor IUU fishing;

80.7 development of MCS, including promoting for implementation by its members in their respective jurisdictions, unless otherwise provided for in an international agreement, real time catch and vessel monitoring systems, other new technologies, monitoring of landings, port control, and inspections and regulation of transshipment, as appropriate;

80.8 development within a regional fisheries management organization, where appropriate, of boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and inspection officers;

80.9 development of observer programmes;

80.10 where appropriate, market-related measures in accordance with the IPOA;

80.11 definition of circumstances in which vessels will be presumed to have engaged in or to have supported IUU fishing;

80.12 development of education and public awareness programmes;

80.13 development of action plans; and

80.14 where agreed by their members, examination of chartering arrangements, if there is concern that these may result in IUU fishing.

81. States, acting through relevant regional fisheries management organizations, should compile and make available on a timely basis, and at least on an annual basis, to other regional fisheries management organizations and to FAO, information relevant to the prevention, deterrence and elimination of IUU fishing, including:

81.1 estimates of the extent, magnitude and character of IUU activities in the area of competence of the regional fisheries management organization;

81.2 details of measures taken to deter, prevent and eliminate IUU fishing;

81.3 records of vessels authorized to fish, as appropriate; and

81.4 records of vessels engaged in IUU fishing.

82. Objectives of institutional and policy strengthening in relevant regional fisheries management organizations in relation to IUU fishing should include enabling regional fisheries management organizations to:

82.1 determine policy objectives regarding IUU fishing, both for internal purposes and co-ordination with other regional fisheries management organizations;

82.2 strengthen institutional mechanisms as appropriate, including mandate, functions, finance, decision making, reporting or information requirements and enforcement schemes, for the optimum implementation of policies in relation to IUU fishing;

82.3 regularize coordination with institutional mechanisms of other regional fisheries management organizations as far as possible in relation to IUU fishing, in particular information, enforcement and trade aspects; and

82.4 ensure timely and effective implementation of policies and measures internally, and in cooperation with other regional fisheries management organizations and relevant regional and international organizations.

83. States, acting through relevant regional fisheries management organizations, should encourage non-contracting parties with a real interest in the fishery concerned to join those organizations and to participate fully in their work. Where this is not possible, the regional fisheries management organizations should encourage and facilitate the participation and cooperation of non-contracting parties, in accordance with applicable international agreements and international law, in the conservation and management of the relevant fisheries resources and in the implementation of measures adopted by the relevant organizations. Regional fisheries management organizations should address the issue of access to the resource in order to foster cooperation and enhance sustainability in the fishery, in accordance with international law. States, acting through relevant regional fisheries management organizations, should also assist, as necessary, non-contracting parties in the implementation of paragraphs 78 and 79 of the IPOA.

84. When a State fails to ensure that fishing vessels entitled to fly its flag, or, to the greatest extent possible, its nationals, do not engage in IUU fishing activities that affect the fish stocks covered by a relevant regional fisheries management organization, the member States, acting through the organization, should draw the problem to the attention of that State. If the problem is not rectified, members of the organization may agree to adopt appropriate measures, through agreed procedures, in accordance with international law.

V. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

85. States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, should cooperate to support training and capacity building and consider providing financial, technical and other assistance to developing countries, including in particular the least developed among them and small island developing States, so that they can more fully meet their commitments under the IPOA and obligations under international law, including their duties as flag States and port States. Such assistance should be directed in particular to help such States in the development and implementation of national plans of action in accordance with paragraph 25.

86. States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, should cooperate to enable:

86.1 review and revision of national legislation and regional regulatory frameworks;

86.2 the improvement and harmonization of fisheries and related data collection;

86.3 the strengthening of regional institutions; and

86.4 the strengthening and enhancement of integrated MCS systems, including satellite monitoring systems.

VI. REPORTING

87. States and regional fisheries management organizations should report to FAO on progress with the elaboration and implementation of their plans to prevent, deter and eliminate IUU fishing as part of their biennial reporting to FAO on the Code of Conduct. These reports should be published by FAO in a timely manner.

VII. ROLE OF FAO

88. FAO will, as and to the extent directed by its Conference, collect all relevant information and data that might serve as a basis for further analysis aimed at identifying factors and causes contributing to IUU fishing such as, *inter alia*, a lack of input and output management controls, unsustainable fishery management methods and subsidies that contribute to IUU fishing.

89. FAO will, as and to the extent directed by its Conference, support development and implementation of national and regional plans to prevent, deter and eliminate IUU fishing through specific, in-country technical assistance projects with Regular Programme funds and through the use of extra-budgetary funds made available to the Organization for this purpose.

90. FAO should, in collaboration with other relevant international organizations, in particular IMO, further investigate the issue of IUU fishing.

91. FAO should convene an Expert Consultation on the implementation of paragraph 76 of the IPOA.

92. FAO should investigate the benefits of establishing and maintaining regional and global databases, including but not limited to, information as provided for in Article VI of the 1993 FAO Compliance Agreement.

93. The FAO Committee on Fisheries will, based on a detailed analysis by the Secretariat, biennially evaluate the progress towards the implementation of the IPOA.



General Assembly

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Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.38 and Add.1)]

61/105. Sustainable fisheries, including through the 1995 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, and related instruments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994, 50/25 of 5 December 1995 and 57/142 of 12 December 2002, as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments, its resolutions 56/13 of 28 November 2001 and 57/143 of 12 December 2002 on 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 (“the Agreement”),¹ and its resolutions 58/14 of 24 November 2003, 59/25 of 17 November 2004 and 60/31 of 29 November 2005 on sustainable fisheries, including through the Agreement and related instruments,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea (“the Convention”),² and bearing in mind the relationship between the Convention and the Agreement,

Recognizing that, in accordance with the Convention, the Agreement sets forth provisions concerning the conservation and management of straddling fish stocks and highly migratory fish stocks, including provisions on compliance and enforcement by the flag State and subregional and regional cooperation in enforcement, binding dispute settlement and the rights and obligations of States in authorizing the use of vessels flying their flags for fishing on the high seas, and specific provisions to address the requirements of developing States in relation to

¹ United Nations, *Treaty Series*, vol. 2167, No. 37924.

² *Ibid.*, vol. 1833, No. 31363.

the conservation and management of straddling fish stocks and highly migratory fish stocks and the development of fisheries for such stocks,

Welcoming the fact that a growing number of States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, as well as regional and subregional fisheries management organizations and arrangements, have taken measures, as appropriate, towards the implementation of the provisions of the Agreement,

Welcoming also the work of the Food and Agriculture Organization of the United Nations and its Committee on Fisheries and the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing, adopted by the Ministerial Meeting on Fisheries of the Food and Agriculture Organization of the United Nations on 12 March 2005,³ which calls for effective implementation of the various instruments already developed to ensure responsible fisheries, and recognizing that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (“the Code”)⁴ and its associated international plans of action set out principles and global standards of behaviour for responsible practices for conservation of fisheries resources and the management and development of fisheries,

Noting with concern that effective management of marine capture fisheries has been made difficult in some areas by unreliable information and data caused by unreported and misreported fish catch and fishing effort and this lack of accurate data contributes to overfishing in some areas, and therefore welcoming the adoption of the Strategy for Improving Information on Status and Trends of Capture Fisheries⁵ and the development of the Fishery Resources Monitoring System (FIRMS) initiative by the Food and Agriculture Organization of the United Nations to improve knowledge and understanding of fishery status and trends,

Recognizing the significant contribution of sustainable fisheries to food security, income and wealth for present and future generations,

Recognizing also the urgent need for action at all levels to ensure the long-term sustainable use and management of fisheries resources through the wide application of the precautionary approach,

Deploring the fact that fish stocks, including straddling fish stocks and highly migratory fish stocks, in many parts of the world are overfished or subject to sparsely regulated and heavy fishing efforts, as a result of, inter alia, illegal, unreported and unregulated fishing, inadequate flag State control and enforcement, including monitoring, control and surveillance measures, inadequate regulatory measures, harmful fisheries subsidies and overcapacity,

Particularly concerned that illegal, unreported and unregulated fishing constitutes a serious threat to fish stocks and marine habitats and ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States,

³ Food and Agriculture Organization of the United Nations, *Outcome of the Ministerial Meeting on Fisheries, Rome, 12 March 2005* (CL 128/INF/11), appendix B.

⁴ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

⁵ Food and Agriculture Organization of the United Nations, *Report of the twenty-fifth session of the Committee on Fisheries, Rome, 24–28 February 2003*, FAO Fisheries Report No. 702 (FIPL/R702(En)), appendix H.

Recognizing the duty provided in the Convention, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (“the Compliance Agreement”),⁶ the Agreement and the Code for flag States to exercise effective control over fishing vessels flying their flag, and vessels flying their flag which provide support to fishing vessels, to ensure that the activities of such fishing and support vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels,

Noting the obligation of all States, pursuant to the provisions of the Convention, to cooperate in the conservation and management of living marine resources, and recognizing the importance of coordination and cooperation at the global, regional, subregional as well as national levels in the areas, inter alia, of data collection, information-sharing, capacity-building and training for the conservation, management and sustainable development of marine living resources,

Noting with appreciation the report of the Review Conference on the Agreement (“the Review Conference”), held in New York from 22 to 26 May 2006,⁷ and welcoming the adoption of the recommendations therein, which assessed the effectiveness of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks by reviewing and assessing the adequacy of its provisions and proposed means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of those stocks, and also noting that the Conference agreed that there is a compelling need for all States and subregional and regional fisheries management organizations and arrangements to ensure the conservation and sustainable use of straddling and highly migratory fish stocks,

Noting with satisfaction that the Review Conference agreed to continue the informal consultations of States parties to the Agreement and to keep the Agreement under review through the resumption of the Conference at a date not later than 2011, to be agreed at a future informal consultation of States parties to the Agreement,

Calling attention to the need for more work to develop port State measures and schemes, and the critical need for cooperation with developing States to build their capacity in this regard,

Concerned that marine pollution from all sources, including vessels and, in particular, land-based sources, constitutes a serious threat to human health and safety, endangers fish stocks, marine biodiversity and marine habitats and has significant costs to local and national economies,

Recognizing that marine debris is a global transboundary pollution problem and that, due to the many different types and sources of marine debris, different approaches to their prevention and removal are necessary,

Noting that the contribution of sustainable aquaculture to global fish supplies continues to respond to opportunities in developing countries to enhance local food security and poverty alleviation and, together with efforts of other aquaculture producing countries, will make a significant contribution to meeting future demands in fish consumption, bearing in mind article 9 of the Code,

⁶ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. II.

⁷ A/CONF.210/2006/15.

Calling attention to the circumstances affecting fisheries in many developing States, in particular African States and small island developing States, and recognizing the urgent need for capacity-building, including the transfer of marine technology and in particular fisheries-related technology, to enhance the ability of such States to meet their obligations and exercise their rights under international instruments, in order to realize the benefits from fisheries resources,

Recognizing the need for appropriate measures to minimize waste, discards, loss of fishing gear and other factors, which adversely affect fish stocks,

Recognizing also the importance of applying ecosystem approaches to oceans management and the need to integrate such approaches into fisheries conservation and management, and in this regard welcoming the report of the seventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea,⁸ held in New York from 12 to 16 June 2006,

Recognizing further the economic and cultural importance of sharks in many countries, the biological importance of sharks in the marine ecosystem, the vulnerability of certain shark species to overexploitation, some of which are threatened with extinction, and the need for measures to promote the long-term sustainability of shark populations and fisheries, and the relevance of the International Plan of Action for the Conservation and Management of Sharks, adopted by the Food and Agriculture Organization of the United Nations in 1999, in providing development guidance of such measures,

Reaffirming its support for the initiative of the Food and Agriculture Organization of the United Nations and relevant regional and subregional fisheries management organizations and arrangements on the conservation and management of sharks, while noting with concern that only a small number of countries have implemented the International Plan of Action for the Conservation and Management of Sharks,

Taking note with appreciation of the report of the Secretary-General on the impacts of fishing on vulnerable marine ecosystems: actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 66 to 69 of General Assembly resolution 59/25 on sustainable fisheries, regarding the impacts of fishing on vulnerable marine ecosystems,⁹ in particular its useful role in gathering and disseminating information on this issue,

Expressing concern that the practice of large-scale pelagic drift-net fishing remains a threat to marine living resources, although the incidence of this practice has continued to be low in most regions of the world's oceans and seas,

Emphasizing that efforts should be made to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift nets that contravene the resolution,

Expressing concern over reports of continued losses of seabirds, particularly albatrosses and petrels, as well as other marine species, including sharks, fin-fish species and marine turtles, as a result of incidental mortality in fishing operations, particularly longline fishing, and other activities, while recognizing considerable

⁸ See A/61/156.

⁹ A/61/154.

efforts to reduce by-catch in longline fishing by States and through various regional fisheries management organizations and arrangements,

I

Achieving sustainable fisheries

1. *Reaffirms* the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention,² in particular the provisions on cooperation set out in Part V and Part VII, section 2, of the Convention, and where applicable, the Agreement;¹

2. *Encourages* States to give due priority to the implementation of the Plan of Implementation of the World Summit on Sustainable Development (“Johannesburg Plan of Implementation”),¹⁰ in relation to achieving sustainable fisheries;

3. *Emphasizes* the obligations of flag States to discharge their responsibilities, in accordance with the Convention and the Agreement, to ensure compliance by vessels flying their flag with the conservation and management measures adopted and in force with respect to fisheries resources on the high seas;

4. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out, taking into account the relationship between the Convention and the Agreement;

5. *Calls upon* all States, directly or through regional fisheries management organizations and arrangements, to apply widely, in accordance with international law and the Code,⁴ the precautionary approach and an ecosystem approach to the conservation, management and exploitation of fish stocks, including straddling fish stocks, highly migratory fish stocks and discrete high seas fish stocks, and also calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

6. *Encourages* States to increase their reliance on scientific advice in developing, adopting and implementing conservation and management measures, and to increase their efforts to promote science for conservation and management measures that apply, in accordance with international law, the precautionary approach and an ecosystem approach to fisheries management, enhancing understanding of ecosystem approaches, in order to ensure the long-term conservation and sustainable use of marine living resources, and in this regard encourages the implementation of the international Strategy for Improving Information on Status and Trends of Capture Fisheries of the Food and Agriculture Organization of the United Nations⁵ as a framework for the improvement and understanding of fishery status and trends;

7. *Also encourages* States to apply the precautionary approach and an ecosystem approach in adopting and implementing conservation and management

¹⁰ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August–4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

measures addressing, inter alia, by-catch, pollution, overfishing, and protecting habitats of specific concern, taking into account existing guidelines developed by the Food and Agriculture Organization of the United Nations;

8. *Calls upon* States and regional fisheries management organizations and arrangements to collect and, where appropriate, report to the Food and Agriculture Organization of the United Nations required catch and effort data, and fishery-related information, in a complete, accurate and timely way, including for straddling fish stocks and highly migratory fish stocks within and beyond areas under national jurisdiction, discrete high seas fish stocks, and by-catch and discards; and where they do not exist, to establish processes to strengthen data collection and reporting by members of regional fisheries management organizations and arrangements, including through regular reviews of member compliance with such obligations, and when such obligations are not met, require the member concerned to rectify the problem, including through the preparation of plans of action with timelines;

9. *Invites* States and regional fisheries management organizations and arrangements to cooperate with the Food and Agriculture Organization of the United Nations in the implementation and further development of the Fishery Resources Monitoring System (FIRMS) initiative;

10. *Urges* States, including those working through subregional or regional fisheries management organizations and arrangements, to implement fully the International Plan of Action for the Conservation and Management of Sharks, notably through the collection of scientific data regarding shark catches and the adoption of conservation and management measures, particularly where shark catches from directed and non-directed fisheries have a significant impact on vulnerable or threatened shark stocks, in order to ensure the conservation and management of sharks and their long-term sustainable use, including by banning directed shark fisheries conducted solely for the purpose of harvesting shark fins and by taking measures for other fisheries to minimize waste and discards from shark catches, and to encourage the full use of dead sharks;

11. *Urges* States to eliminate barriers to trade in fish and fisheries products which are not consistent with their rights and obligations under the World Trade Organization agreements, taking into account the importance of the trade in fish and fisheries products, particularly for developing countries;

12. *Urges* States and relevant international and national organizations to provide for participation of small-scale fishery stakeholders in related policy development and fisheries management strategies in order to achieve long-term sustainability for such fisheries, consistent with the duty to ensure the proper conservation and management of fisheries resources;

II

Implementation of the 1995 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

13. *Calls upon* all States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, that have not done so to ratify or accede to the Agreement and in the interim to consider applying it provisionally;

14. *Calls upon* States parties to the Agreement to harmonize, as a matter of priority, their national legislation with the provisions of the Agreement, and to

ensure that the provisions of the Agreement are effectively implemented into regional fisheries management organizations and arrangements of which they are a member;

15. *Emphasizes* the importance of those provisions of the Agreement relating to bilateral, regional and subregional cooperation in enforcement, and urges continued efforts in this regard;

16. *Calls upon* all States to ensure that their vessels comply with the conservation and management measures that have been adopted by regional and subregional fisheries management organizations and arrangements in accordance with relevant provisions of the Convention and of the Agreement;

17. *Urges* States parties to the Agreement, in accordance with article 21, paragraph 4, thereof to inform, either directly or through the relevant regional or subregional fisheries management organization or arrangement, all States whose vessels fish on the high seas in the same region or subregion of the form of identification issued by those States parties to officials duly authorized to carry out boarding and inspection functions in accordance with articles 21 and 22 of the Agreement;

18. *Also urges* States parties to the Agreement, in accordance with article 21, paragraph 4, to designate an appropriate authority to receive notifications pursuant to article 21 and to give due publicity to such designation through the relevant subregional or regional fisheries management organization or arrangement;

19. *Calls upon* States individually and, as appropriate, through regional and subregional fisheries management organizations and arrangements with competence over discrete high seas fish stocks, to adopt the necessary measures to ensure the long-term conservation, management and sustainable use of such stocks in accordance with the Convention and consistent with the general principles set forth in the Agreement;

20. *Invites* States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and the expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of fisheries resources;

21. *Invites* States to assist developing States in enhancing their participation in regional fisheries management organizations or arrangements, including through facilitating access to fisheries for straddling fish stocks and highly migratory fish stocks, in accordance with article 25, paragraph 1 (b), of the Agreement, taking into account the need to ensure that such access benefits the developing States concerned and their nationals;

22. *Notes with satisfaction* that the Assistance Fund under Part VII of the Agreement has begun to operate and consider applications for assistance by developing States parties to the Agreement, and encourages States, intergovernmental organizations, international financial institutions, national institutions and non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Assistance Fund;

23. *Requests* that the Food and Agriculture Organization of the United Nations and the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat further publicize the availability of assistance through the Assistance Fund, and solicit views from developing States parties to the Agreement regarding the application and award procedures of the Fund, and consider changes where necessary to improve the process;

24. *Encourages* States, individually and, as appropriate, through regional and subregional fisheries management organizations and arrangements, to implement the recommendations of the Review Conference;⁷

25. *Recalls* paragraph 6 of resolution 56/13, and requests the Secretary-General to convene in 2007, in accordance with past practice, a sixth round of informal consultations of States parties to the Agreement, for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, as well as considering initial preparatory steps for the resumption of the Review Conference convened by the Secretary-General pursuant to article 36 of the Agreement, and making any appropriate recommendation to the General Assembly;

26. *Requests* the Secretary-General to invite States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, not party to the Agreement, as well as the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Commission on Sustainable Development, the World Bank, the Global Environment Facility and other relevant international financial institutions, subregional and regional fisheries management organizations and arrangements, other fisheries bodies, other relevant intergovernmental bodies and relevant non-governmental organizations, in accordance with past practice, to attend the sixth round of informal consultations of States parties to the Agreement as observers;

27. *Requests* the Food and Agriculture Organization of the United Nations to initiate arrangements with States for the collection and dissemination of data on fishing in the high seas by vessels flying their flag at the subregional and regional levels where none exist;

28. *Also requests* the Food and Agriculture Organization of the United Nations to revise its global fisheries statistics database to provide information on straddling fish stocks, highly migratory fish stocks and discrete high seas fish stocks on the basis of where the catch is taken;

III

Related fisheries instruments

29. *Emphasizes* the importance of the effective implementation of the provisions of the Compliance Agreement,⁶ and urges continued efforts in this regard;

30. *Calls upon* all States and other entities referred to in article X, paragraph 1, of the Compliance Agreement that have not yet become parties to that Agreement to do so as a matter of priority and, in the interim, to consider applying it provisionally;

31. *Urges* States and subregional and regional fisheries management organizations and arrangements to implement and promote the application of the Code within their areas of competence;

32. *Urges* States to develop and implement, as a matter of priority, national and, as appropriate, regional plans of action to put into effect the international plans of action of the Food and Agriculture Organization of the United Nations;

IV

Illegal, unreported and unregulated fishing

33. *Emphasizes once again its serious concern* that illegal, unreported and unregulated fishing remains one of the greatest threats to marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, and renews its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all necessary steps to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations;

34. *Urges* States to exercise effective control over their nationals, including beneficial owners, and vessels flying their flag in order to prevent and deter them from engaging in or supporting illegal, unreported and unregulated fishing activities, and to facilitate mutual assistance to ensure that such actions can be investigated and proper sanctions imposed;

35. *Also urges* States to take effective measures, at the national, regional and global levels, to deter the activities, including illegal, unreported and unregulated fishing, of any vessel which undermines conservation and management measures that have been adopted by regional and subregional fisheries management organizations and arrangements in accordance with international law;

36. *Calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, and to take specific measures, including deterring the reflagging of vessels by their nationals, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

37. *Reaffirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation, in particular at the subregional and regional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law, and for States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to collaborate in efforts to address these types of fishing activities, including, inter alia, the development and implementation of vessel monitoring systems and the listing of vessels in order to prevent illegal, unreported and unregulated fishing activities and, where appropriate and consistent with international law, trade monitoring schemes, including to collect global catch data, through subregional and regional fisheries management organizations and arrangements;

38. *Calls upon* States to take all measures consistent with international law necessary to prevent, deter and eliminate illegal, unreported and unregulated fishing activities, such as developing measures consistent with national law to prohibit vessels flying their flag from supporting vessels engaging in illegal, unreported and unregulated fishing activities, including those listed by regional fisheries management organizations or arrangements;

39. *Also calls upon* States to take all necessary measures consistent with international law, without prejudice to reasons of force majeure or distress, including the prohibition of vessels from accessing their ports followed by a report to the flag State concerned, when there is clear evidence that they are or have been engaged in or have supported illegal, unreported and unregulated fishing, or when they refuse to give information either on the origin of the catch or on the authorization under which the catch has been made;

40. *Urges* further international action to eliminate illegal, unreported and unregulated fishing by vessels flying “flags of convenience” as well as to require that a “genuine link” be established between States and fishing vessels flying their flags, and calls upon States to implement the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing³ as a matter of priority;

41. *Urges* States individually and collectively through regional fisheries management organizations and arrangements to cooperate to clarify the role of the “genuine link” in relation to the duty of States to exercise effective control over fishing vessels flying their flag and to develop appropriate processes to assess performance of States with respect to implementing the obligations regarding fishing vessels flying their flag set out in relevant international instruments;

42. *Recognizes* the need for enhanced port State controls to combat illegal, unreported and unregulated fishing, and urges States to cooperate, in particular at the regional level and through subregional and regional fisheries management organizations and arrangements, to adopt all necessary port measures, consistent with international law taking into account article 23 of the Agreement, particularly those identified in the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing, adopted by the Food and Agriculture Organization of the United Nations in 2005, and to promote the development and application of minimum standards at the regional level;

43. *Encourages* States to initiate, as soon as possible, a process within the Food and Agriculture Organization of the United Nations to develop, as appropriate, a legally binding instrument on minimum standards for port State measures, building on the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

44. *Encourages* States, with respect to vessels flying their flag, and port States, to make every effort to share data on landings and catch quotas, and in this regard encourages regional fisheries management organizations or arrangements to consider developing open databases containing such data for the purpose of enhancing the effectiveness of fisheries management;

45. *Calls upon* States to take all necessary measures to ensure that vessels flying their flag do not engage in trans-shipment of fish caught by fishing vessels engaged in illegal, unreported and unregulated fishing;

46. *Urges* States, individually and through regional fisheries management organizations and arrangements, to adopt and implement internationally agreed market-related measures in accordance with international law, including principles, rights and obligations established in World Trade Organization agreements, as called for in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

V

Monitoring, control and surveillance and compliance and enforcement

47. *Calls upon* States in accordance with international law to strengthen implementation of or, where they do not exist, adopt comprehensive monitoring, control and surveillance measures and compliance and enforcement schemes individually and within those regional fisheries management organizations or arrangements in which they participate in order to provide an appropriate framework for promoting compliance with agreed conservation and management measures, and further urges enhanced coordination among all relevant States and regional fisheries management organizations and arrangements in these efforts;

48. *Encourages* further work by competent international organizations, including the Food and Agriculture Organization of the United Nations and subregional and regional fisheries management organizations and arrangements, to develop guidelines on flag State control of fishing vessels;

49. *Urges* States, individually and through relevant regional fisheries management organizations and arrangements, to establish mandatory vessel monitoring, control and surveillance systems, in particular to require that vessel monitoring systems be carried by all vessels fishing on the high seas as soon as practicable, and in the case of large-scale fishing vessels no later than December 2008, and share information on fisheries enforcement matters;

50. *Calls upon* States, individually and through regional fisheries management organizations or arrangements, to strengthen or establish, consistent with national and international law, positive or negative lists of vessels fishing within the areas covered by relevant regional fisheries management organizations and arrangements in order to verify compliance with conservation and management measures and identify products from illegal, unreported and unregulated catches, and encourages improved coordination among all parties and regional fisheries management organizations and arrangements in sharing and using this information, taking into account the forms of cooperation with developing States as set out in article 25 of the Agreement;

51. *Requests* States and relevant international bodies to develop, in accordance with international law, more effective measures to trace fish and fishery products to enable importing States to identify fish or fishery products caught in a manner that undermines international conservation and management measures agreed in accordance with international law, taking into account the special requirements of developing States and the forms of cooperation with developing States as set out in article 25 of the Agreement, and at the same time to recognize the importance of market access, in accordance with provisions 11.2.4, 11.2.5 and 11.2.6 of the Code, for fish and fishery products caught in a manner that is in conformity with such international measures;

52. *Encourages* States to establish and undertake cooperative surveillance and enforcement activities in accordance with international law to strengthen and enhance efforts to ensure compliance with conservation and management measures, and prevent and deter illegal, unreported and unregulated fishing;

53. *Urges* States, individually and through regional fisheries management organizations or arrangements, to develop and adopt effective measures to regulate trans-shipment, in particular at-sea trans-shipment, in order to, inter alia, monitor compliance, collect and verify fisheries data, and to prevent and suppress illegal, unregulated and unreported fishing activities in accordance with international law;

and, in parallel, encourage and support the Food and Agriculture Organization of the United Nations in studying the current practices of trans-shipment as it relates to fishing operations for straddling fish stocks and highly migratory fish stocks and produce a set of guidelines for this purpose;

54. *Encourages* States to join and actively participate in the existing voluntary International Monitoring, Control and Surveillance Network for Fisheries-Related Activities and to consider supporting, when appropriate, transformation of the Monitoring, Control and Surveillance Network in accordance with international law into an international unit with dedicated resources to further assist Network members, taking into account the forms of cooperation with developing States as set out in article 25 of the Agreement;

55. *Notes with satisfaction* the completion of the first Global Fisheries Enforcement Training Conference, held in Kuala Lumpur from 18 to 22 July 2005 and hosted by the Government of Malaysia in cooperation with the Monitoring, Control and Surveillance Network and the FishCode programme of the Food and Agriculture Organization of the United Nations, and encourages widespread participation in the upcoming Second Global Fisheries Enforcement Training Conference, to be held in Trondheim, Norway, in August 2008 and sponsored by the Norwegian Directorate of Fisheries in conjunction with the Network;

56. *Encourages* States to cooperate in the development of a comprehensive global record within the Food and Agriculture Organization of the United Nations of fishing vessels, including refrigerated transport vessels and supply vessels, that incorporates available information on beneficial ownership, subject to confidentiality requirements in accordance with national law, as called for in the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing;

VI

Fishing overcapacity

57. *Calls upon* States to commit to urgently reducing the capacity of the world's fishing fleets to levels commensurate with the sustainability of fish stocks, through the establishment of target levels and plans or other appropriate mechanisms for ongoing capacity assessment, while avoiding the transfer of fishing capacity to other fisheries or areas in a manner that undermines the sustainable management of fish stocks, including, inter alia, those areas where fish stocks are overexploited or in a depleted condition, and recognizing in this context the legitimate rights of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks consistent with article 25 of the Agreement, article 5 of the Code, and paragraph 10 of the International Plan of Action for the Management of Fishing Capacity;

58. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to fishing overcapacity, while completing the efforts undertaken at the World Trade Organization in accordance with the Doha Declaration¹¹ to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector, including small-scale and artisanal fisheries and aquaculture, to developing countries;

¹¹ World Trade Organization, document WT/MIN(01)/DEC/1. Available from <http://docsonline.wto.org>.

VII

Large-scale pelagic drift-net fishing

59. *Reaffirms* the importance it attaches to continued compliance with its resolution 46/215 and other subsequent resolutions on large-scale pelagic drift-net fishing, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions;

VIII

Fisheries by-catch and discards

60. *Urges* States, regional and subregional fisheries management organizations and arrangements and other relevant international organizations that have not done so to take action to reduce or eliminate by-catch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

61. *Encourages* States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to give due consideration to participation, as appropriate, in regional and subregional instruments and organizations with mandates to conserve non-target species taken incidentally in fishing operations;

62. *Requests* States and regional fisheries management organizations and arrangements to urgently implement, as appropriate, the measures recommended in the Guidelines to Reduce Sea Turtle Mortality in Fishing Operations¹² and the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries of the Food and Agriculture Organization of the United Nations in order to prevent the decline of sea turtles and seabird populations by reducing by-catch and increasing post-release survival in their fisheries, including through research and development of gear and bait alternatives, promoting the use of available by-catch mitigation technology, and promotion and strengthening of data-collection programmes to obtain standardized information to develop reliable estimates of the by-catch of these species;

¹² Food and Agriculture Organization of the United Nations, *Report of the Technical Consultation on Sea Turtles Conservation and Fisheries, Bangkok, Thailand, 29 November–2 December 2004*, FAO Fisheries Report No. 765 (FIRM/R765(En)), appendix E.

IX

Subregional and regional cooperation

63. *Urges* coastal States and States fishing on the high seas, in accordance with the Convention and the Agreement, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation and management of such stocks;

64. *Urges* States fishing for straddling fish stocks and highly migratory fish stocks on the high seas, and relevant coastal States, where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for such stocks, to give effect to their duty to cooperate by becoming members of such an organization or participants in such an arrangement, or by agreeing to apply the conservation and management measures established by such an organization or arrangement, or to otherwise ensure that no vessel flying their flag be authorized to access the fisheries resources to which regional fisheries management organizations and arrangements or conservation and management measures established by such organizations or arrangements apply;

65. *Invites*, in this regard, subregional and regional fisheries management organizations and arrangements to ensure that all States having a real interest in the fisheries concerned may become members of such organizations or participants in such arrangements, in accordance with the Convention and the Agreement;

66. *Encourages* relevant coastal States and States fishing on the high seas for a straddling fish stock or a highly migratory fish stock, where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for such stocks, to cooperate to establish such an organization or enter into another appropriate arrangement to ensure the conservation and management of such stocks, and to participate in the work of the organization or arrangement;

67. *Welcomes* the adoption of conservation measures by the South-East Atlantic Fisheries Organization at its third annual meeting, held in Windhoek on 4 October 2006, including an interim prohibition of fishing activities in ten marine areas with prominent seamounts, and urges all signatory States and other States whose vessels fish within the area of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean for fishery resources covered by that Convention to become parties to that Convention as a matter of priority and, in the interim, to ensure that vessels flying their flags fully comply with the measures adopted;

68. *Also welcomes* the adoption of the South Indian Ocean Fisheries Agreement in Rome on 7 July 2006, encourages signatory States and States having a real interest to become parties to that Agreement, and urges those States to agree on and implement interim measures to ensure the conservation and management of the fisheries resources and their marine ecosystems and habitats in the area to which that Agreement applies until such time as that Agreement enters into force;

69. *Further welcomes* the initiation and progress of negotiations to establish regional and subregional fisheries management organizations or arrangements in several fisheries, in particular in the South Pacific and North-West Pacific, encourages States having a real interest to participate in such negotiations, urges participants to expedite those negotiations and to apply provisions of the Convention and the Agreement to their work, and further urges participants to agree

on and implement interim conservation and management measures until such regional and subregional fisheries management organizations or arrangements are established;

70. *Urges* further efforts by regional fisheries management organizations and arrangements, as a matter of priority, in accordance with international law, to strengthen and modernize their mandates and the measures adopted by such organizations or arrangements, to implement modern approaches to fisheries management as reflected in the Agreement and other relevant international instruments relying on the best scientific information available and application of the precautionary approach, and incorporating an ecosystem approach to fisheries management and biodiversity considerations, where these aspects are lacking, to ensure that they effectively contribute to long-term conservation and management and sustainable use of marine living resources;

71. *Urges* States to strengthen and enhance cooperation among existing and developing regional fisheries management organizations and arrangements in which they participate, including increased communication and further coordination of measures, and in this regard encourages wide participation in the joint tuna regional fisheries management organization and arrangement meeting that will be hosted by the Government of Japan in 2007, and encourages members of other existing regional fisheries management organizations or arrangements and participants in establishing new regional fisheries management organizations or arrangements to hold similar consultations;

72. *Urges* regional fisheries management organizations and arrangements to improve transparency and to ensure that their decision-making processes are fair and transparent, rely on best scientific information available, incorporate the precautionary approach and ecosystem approaches, address participatory rights, including through, inter alia, the development of transparent criteria for allocating fishing opportunities which reflects, where appropriate, the relevant provisions of the Agreement, taking due account, inter alia, of the status of the relevant stocks and the respective interests in the fishery, and strengthen integration, coordination and cooperation with other relevant fisheries organizations, regional seas arrangements and other relevant international organizations;

73. *Urges* States, through their participation in regional fisheries management organizations and arrangements, to undertake, on an urgent basis, performance reviews of those regional fisheries management organizations and arrangements, initiated either by the organization or arrangement itself or with external partners, including in cooperation with the Food and Agriculture Organization of the United Nations, using transparent criteria based on the provisions of the Agreement and other relevant instruments, including the best practices of regional fisheries management organizations or arrangements; and further encourages that such performance reviews include some element of independent evaluation and that the results be made publicly available, noting that the North East Atlantic Fisheries Commission has completed a performance review;

74. *Also urges* States to cooperate to develop best practice guidelines for regional fisheries management organizations and arrangements and to apply, to the extent possible, those guidelines to organizations and arrangements in which they participate;

75. *Encourages* the development of regional guidelines for States to use in establishing sanctions, for non-compliance by vessels flying their flag and by their nationals, to be applied in accordance with national law, that are adequate in

severity for effectively securing compliance, deterring further violations and depriving offenders of the benefits deriving from their illegal activities, as well as in evaluating their systems of sanctions to ensure that they are effective in securing compliance and deterring violations;

X

Responsible fisheries in the marine ecosystem

76. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem¹³ and decision VII/11¹⁴ and other relevant decisions of the Conference of the Parties to the Convention on Biological Diversity, notes the work of the Food and Agriculture Organization of the United Nations related to guidelines for the implementation of the ecosystem approach to fisheries management, and also notes the importance to this approach of relevant provisions of the Agreement and the Code;

77. *Also encourages* States, individually or through regional fisheries management organizations and arrangements and other relevant international organizations, to work to ensure that fisheries and other ecosystem data collection is performed in a coordinated and integrated manner, facilitating incorporation into global observation initiatives, where appropriate;

78. *Further encourages* States to increase scientific research in accordance with international law on the marine ecosystem;

79. *Calls upon* States, the Food and Agriculture Organization of the United Nations and other specialized agencies of the United Nations, subregional and regional fisheries management organizations and arrangements, where appropriate, and other appropriate intergovernmental bodies, to cooperate in achieving sustainable aquaculture, including through information exchange, developing equivalent standards on such issues as aquatic animal health and human health and safety concerns, assessing the potential positive and negative impacts of aquaculture, including socio-economics, on the marine and coastal environment, including biodiversity, and adopting relevant methods and techniques to minimize and mitigate adverse effects;

80. *Calls upon* States to take action immediately, individually and through regional fisheries management organizations and arrangements, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and protect vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals, from destructive fishing practices, recognizing the immense importance and value of deep sea ecosystems and the biodiversity they contain;

81. *Reaffirms* the importance it attaches to paragraphs 66 to 69 of its resolution 59/25 concerning the impacts of fishing on vulnerable marine ecosystems;

82. *Welcomes* the important progress made by States and regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to give effect to paragraphs 66 to 69 of its resolution 59/25 to address the

¹³ E/CN.17/2002/PC.2/3, annex.

¹⁴ See UNEP/CBD/COP/7/21, annex.

impacts of fishing on vulnerable marine ecosystems, including through initiating negotiations to establish new regional fisheries management organizations or arrangements, but on the basis of the review called for in paragraph 71 of that resolution, recognizes that additional actions are urgently needed;

83. *Calls upon* regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to adopt and implement measures, in accordance with the precautionary approach, ecosystem approaches and international law, for their respective regulatory areas as a matter of priority, but not later than 31 December 2008:

(a) To assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorized to proceed;

(b) To identify vulnerable marine ecosystems and determine whether bottom fishing activities would cause significant adverse impacts to such ecosystems and the long-term sustainability of deep sea fish stocks, inter alia, by improving scientific research and data collection and sharing, and through new and exploratory fisheries;

(c) In respect of areas where vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals, are known to occur or are likely to occur based on the best available scientific information, to close such areas to bottom fishing and ensure that such activities do not proceed unless conservation and management measures have been established to prevent significant adverse impacts on vulnerable marine ecosystems;

(d) To require members of the regional fisheries management organizations or arrangements to require vessels flying their flag to cease bottom fishing activities in areas where, in the course of fishing operations, vulnerable marine ecosystems are encountered, and to report the encounter so that appropriate measures can be adopted in respect of the relevant site;

84. *Also calls upon* regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to make the measures adopted pursuant to paragraph 83 of the present resolution publicly available;

85. *Calls upon* those States participating in negotiations to establish a regional fisheries management organization or arrangement competent to regulate bottom fisheries to expedite such negotiations and, by no later than 31 December 2007, to adopt and implement interim measures consistent with paragraph 83 of the present resolution and make these measures publicly available;

86. *Calls upon* flag States to either adopt and implement measures in accordance with paragraph 83 of the present resolution, mutatis mutandis, or cease to authorize fishing vessels flying their flag to conduct bottom fisheries in areas beyond national jurisdiction where there is no regional fisheries management organization or arrangement with the competence to regulate such fisheries or interim measures in accordance with paragraph 85 of the present resolution, until measures are taken in accordance with paragraph 83 or 85 of the present resolution;

87. *Further calls upon* States to make publicly available through the Food and Agriculture Organization of the United Nations a list of those vessels flying

their flag authorized to conduct bottom fisheries in areas beyond national jurisdiction, and the measures they have adopted pursuant to paragraph 86 of the present resolution;

88. *Emphasizes* the critical role played by the Food and Agriculture Organization of the United Nations in providing expert technical advice, in assisting with international fisheries policy development and management standards, and in collection and dissemination of information on fisheries-related issues, including the protection of vulnerable marine ecosystems from the impacts of fishing;

89. *Commends* the Food and Agriculture Organization of the United Nations for its work on the management of deep sea fisheries in the high seas, including the expert consultation held from 21 to 23 November 2006 in Bangkok, and further invites the Food and Agriculture Organization of the United Nations to establish at its next Committee on Fisheries meeting a time frame of relevant work with respect to the management of deep sea fisheries in the high seas, including enhancing data collection and dissemination, promoting information exchange and increased knowledge on deep sea fishing activities, such as through convening a meeting of States engaged in such fisheries, developing standards and criteria for use by States and regional fisheries management organizations or arrangements in identifying vulnerable marine ecosystems and the impacts of fishing on such ecosystems, and establishing standards for the management of deep sea fisheries, such as through the development of an international plan of action;

90. *Invites* the Food and Agriculture Organization of the United Nations to consider creating a global database of information on vulnerable marine ecosystems in areas beyond national jurisdiction to assist States in assessing any impacts of bottom fisheries on vulnerable marine ecosystems, and invites States and regional fisheries management organizations or arrangements to submit information to any such database on all vulnerable marine ecosystems identified in accordance with paragraph 83 of the present resolution;

91. *Requests* the Secretary-General, in cooperation with the Food and Agriculture Organization of the United Nations, to include in his report concerning fisheries to the General Assembly at its sixty-fourth session a section on the actions taken by States and regional fisheries management organizations and arrangements in response to paragraphs 83 to 90 of the present resolution, and decides to conduct a further review of such actions at that session in 2009, with a view to further recommendations, where necessary;

92. *Encourages* accelerated progress to establish criteria on the objectives and management of marine protected areas for fisheries purposes, and in this regard welcomes the proposed work of the Food and Agriculture Organization of the United Nations to develop technical guidelines in accordance with the Convention on the design, implementation and testing of marine protected areas for such purposes, and urges coordination and cooperation among all relevant international organizations and bodies;

93. *Notes* that the Second Intergovernmental Review Meeting of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities was held from 16 to 20 October 2006 in Beijing, and urges all States to implement the Global Programme of Action and to accelerate activity to safeguard the marine ecosystem, including fish stocks, against pollution and physical degradation;

94. *Reaffirms* the importance it attaches to paragraphs 77 to 81 of its resolution 60/31 concerning the issue of lost, abandoned, or discarded fishing gear and related marine debris and the adverse impacts such debris and derelict fishing gear have on, inter alia, fish stocks, habitats and other marine species, and urges accelerated progress by States and regional fisheries management organizations and arrangements in implementing those paragraphs of the resolution;

95. *Further encourages* the Committee on Fisheries of the Food and Agriculture Organization of the United Nations to consider the issue of derelict fishing gear and related marine debris at its next meeting in 2007, and in particular the implementation of relevant provisions of the Code;

XI

Capacity-building

96. *Reiterates* the crucial importance of cooperation by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including the Food and Agriculture Organization of the United Nations through its FishCode programme, including through financial and/or technical assistance, in accordance with the Agreement, the Compliance Agreement, the Code, the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, the International Plan of Action for the Conservation and Management of Sharks, the International Plan of Action for the Management of Fishing Capacity, the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries, and the Guidelines to Reduce Sea Turtle Mortality in Fishing Operations of the Food and Agriculture Organization of the United Nations, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

97. *Welcomes* the work of the Food and Agriculture Organization of the United Nations in developing guidance on the strategies and measures required for the creation of an enabling environment for small-scale fisheries, including the development of a code of conduct and guidelines for enhancing the contribution of small-scale fisheries to poverty alleviation and food security that include adequate provisions with regard to financial measures and capacity-building, including transfer of technology, and encourages studies for creating possible alternative livelihoods for coastal communities;

98. *Encourages* increased capacity-building and technical assistance by States, international financial institutions and relevant intergovernmental organizations and bodies for fishers, in particular small-scale fishers, in developing countries, and in particular small island developing States, consistent with environmental sustainability;

99. *Encourages* the international community to enhance the opportunities for sustainable development in developing countries, in particular the least developed countries, small island developing States and coastal African States, by encouraging greater participation of those States in authorized fisheries activities being undertaken within areas under their national jurisdiction, in accordance with the Convention, by distant-water fishing nations in order to achieve better economic returns for developing countries from their fisheries resources within areas under their national jurisdiction and an enhanced role in regional fisheries management, as well as by enhancing the ability of developing countries to develop their own fisheries, as well as to participate in high seas fisheries, including access to such

fisheries, in conformity with international law, in particular the Convention and the Agreement;

100. *Requests* distant-water fishing nations, when negotiating access agreements and arrangements with developing coastal States, to do so on an equitable and sustainable basis, including by giving greater attention to fish processing, including fish processing facilities, within the national jurisdiction of the developing coastal State to assist the realization of the benefits from the development of fisheries resources, and also including, inter alia, the transfer of technology and assistance for monitoring, control and surveillance and compliance and enforcement within areas under the national jurisdiction of the developing coastal State providing fisheries access, taking into account the forms of cooperation set out in article 25 of the Agreement;

101. *Encourages* States individually and through regional fisheries management organizations and arrangements to provide greater assistance and to promote coherence in such assistance for developing States in designing, establishing and implementing relevant agreements, instruments and tools for the conservation and sustainable management of fish stocks, including in designing and strengthening their domestic regulatory fisheries policies and those of regional fisheries management organizations or arrangements in their regions, and the enhancement of research and scientific capabilities through existing funds, such as the Assistance Fund under Part VII of the Agreement, bilateral assistance, regional fisheries management organizations and arrangements assistance funds, the FishCode programme, the World Bank's global programme on fisheries and the Global Environment Facility;

102. *Calls upon* States to promote, through continuing dialogue and the assistance and cooperation provided in accordance with articles 24 to 26 of the Agreement, further ratification of or accession to the Agreement by seeking to address, inter alia, the issue of lack of capacity and resources that might stand in the way of developing States becoming parties;

XII

Cooperation within the United Nations system

103. *Requests* the relevant parts of the United Nations system, international financial institutions and donor agencies to support increased enforcement and compliance capabilities for regional fisheries management organizations and their member States;

104. *Invites* the Food and Agriculture Organization of the United Nations to continue its cooperative arrangements with United Nations agencies on the implementation of the international plans of action and to report to the Secretary-General, for inclusion in his annual report on sustainable fisheries, on priorities for cooperation and coordination in this work;

105. *Invites* the Division for Ocean Affairs and the Law of the Sea, the Food and Agriculture Organization of the United Nations and other relevant bodies of the United Nations system to consult and cooperate in the preparation of questionnaires designed to collect information on sustainable fisheries, in order to avoid duplication;

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106. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

107. *Also requests* the Secretary-General to submit to the General Assembly at its sixty-second session a report on “Sustainable fisheries, including through the 1995 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, and related instruments”, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting, inter alia, of elements provided in relevant paragraphs in the present resolution;

108. *Decides* to include in the provisional agenda of its sixty-second session, under the item entitled “Oceans and the law of the sea”, the sub-item entitled “Sustainable fisheries, including through the 1995 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, and related instruments”.

*71st plenary meeting
8 December 2006*

Agenda 21: Chapter 17

PROTECTION OF THE OCEANS, ALL KINDS OF SEAS, INCLUDING ENCLOSED AND SEMI-ENCLOSED SEAS, AND COASTAL AREAS AND THE PROTECTION, RATIONAL USE AND DEVELOPMENT OF THEIR LIVING RESOURCES

17.1. The marine environment - including the oceans and all seas and adjacent coastal areas - forms an integrated whole that is an essential component of the global life-support system and a positive asset that presents opportunities for sustainable development. International law, as reflected in the provisions of the United Nations Convention on the Law of the Sea **1/**, **2/** referred to in this chapter of Agenda 21, sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources. This requires new approaches to marine and coastal area management and development, at the national, subregional, regional and global levels, approaches that are integrated in content and are precautionary and anticipatory in ambit, as reflected in the following programme areas:

- Integrated management and sustainable development of coastal areas, including exclusive economic zones;
- Marine environmental protection;
- Sustainable use and conservation of marine living resources of the high seas;
- Sustainable use and conservation of marine living resources under national jurisdiction;
- Addressing critical uncertainties for the management of the marine environment and climate change;
- Strengthening international, including regional, cooperation and coordination;
- Sustainable development of small islands.

17.2. The implementation by developing countries of the activities set forth below shall be commensurate with their individual technological and financial capacities and priorities in allocating resources for development needs and ultimately depends on the technology transfer and financial resources required and made available to them.

PROGRAMME AREAS

A. Integrated management and sustainable development of coastal and marine areas, including exclusive economic zones

Basis for action

17.3. The coastal area contains diverse and productive habitats important for human settlements, development and local subsistence. More than half the world's population lives within 60 km of the shoreline, and this could rise to three quarters by the year 2020. Many of the world's poor are crowded in coastal areas. Coastal resources are vital for many local communities and indigenous people. The exclusive economic zone (EEZ) is also an important marine area where the States manage the development and conservation of natural resources for the benefit of their people. For small island States or countries, these are the areas most available for development activities.

17.4. Despite national, subregional, regional and global efforts, current approaches to the management of marine and coastal resources have not always proved capable of achieving sustainable development, and coastal resources and the coastal environment are being rapidly degraded and eroded in many parts of the world.

Objectives

17.5. Coastal States commit themselves to integrated management and sustainable development of coastal areas and the marine environment under their national jurisdiction. To this end, it is necessary to, inter alia:

- (a) Provide for an integrated policy and decision-making process, including all involved sectors, to promote compatibility and a balance of uses;
- (b) Identify existing and projected uses of coastal areas and their interactions;
- (c) Concentrate on well-defined issues concerning coastal management;
- (d) Apply preventive and precautionary approaches in project planning and implementation, including prior assessment and systematic observation of the impacts of major projects;
- (e) Promote the development and application of methods, such as national resource and environmental accounting, that reflect changes in value resulting from uses of coastal and marine areas, including pollution, marine erosion, loss of resources and habitat destruction;
- (f) Provide access, as far as possible, for concerned individuals, groups and organizations to relevant information and opportunities for consultation and participation in planning and decision-making at appropriate levels.

Activities

A) Management-related activities

17.6. Each coastal State should consider establishing, or where necessary strengthening, appropriate coordinating mechanisms (such as a high-level policy planning body) for integrated management and sustainable development of coastal and marine areas and their resources, at both the local and national levels. Such mechanisms should include consultation, as appropriate, with the academic and private sectors, non-governmental organizations, local communities, resource user groups, and indigenous people. Such national coordinating mechanisms could provide, inter alia, for:

- (a) Preparation and implementation of land and water use and siting policies;
- (b) Implementation of integrated coastal and marine management and sustainable development plans and programmes at appropriate levels;
- (c) Preparation of coastal profiles identifying critical areas, including eroded zones, physical processes, development patterns, user conflicts and specific priorities for management;
- (d) Prior environmental impact assessment, systematic observation and follow-up of major projects, including the systematic incorporation of results in decision-making;
- (e) Contingency plans for human induced and natural disasters, including likely effects of potential climate change and sealevel rise, as well as contingency plans for degradation and pollution of anthropogenic origin, including spills of oil and other materials;
- (f) Improvement of coastal human settlements, especially in housing, drinking water and treatment and disposal of sewage, solid wastes and industrial effluents;
- (g) Periodic assessment of the impacts of external factors and phenomena to ensure that the objectives of integrated management and sustainable development of coastal areas and the marine environment are met;
- (h) Conservation and restoration of altered critical habitats;
- (i) Integration of sectoral programmes on sustainable development for settlements, agriculture, tourism, fishing, ports and industries affecting the coastal area;
- (j) Infrastructure adaptation and alternative employment;
- (k) Human resource development and training;
- (l) Public education, awareness and information programmes;
- (m) Promoting environmentally sound technology and sustainable practices;
- (n) Development and simultaneous implementation of environmental quality criteria.

17.7. Coastal States, with the support of international organizations, upon request, should undertake measures to maintain biological diversity and productivity of marine species and habitats under national jurisdiction. Inter alia, these measures might include: surveys of marine biodiversity, inventories of endangered species and critical coastal and marine habitats; establishment and management of protected areas; and support of scientific research and dissemination of its results.

B) Data and information

17.8. Coastal States, where necessary, should improve their capacity to collect, analyse, assess and use information for sustainable use of resources, including environmental impacts of activities affecting the coastal and marine areas. Information for management purposes should receive priority support in view of the intensity and magnitude of the changes occurring in the coastal and marine areas. To this end, it is necessary to, inter alia:

- (a) Develop and maintain databases for assessment and management of coastal areas and all seas and their resources;
- (b) Develop socio-economic and environmental indicators;
- (c) Conduct regular environmental assessment of the state of the environment of coastal and marine areas;
- (d) Prepare and maintain profiles of coastal area resources, activities, uses, habitats and protected areas based on the criteria of sustainable development;
- (e) Exchange information and data.

17.9. Cooperation with developing countries, and, where applicable, subregional and regional mechanisms, should be strengthened to improve their capacities to achieve the above.

C) International and regional cooperation and coordination

17.10. The role of international cooperation and coordination on a bilateral basis and, where applicable, within a subregional, interregional, regional or global framework, is to support and supplement national efforts of coastal States to promote integrated management and sustainable development of coastal and marine areas.

17.11. States should cooperate, as appropriate, in the preparation of national guidelines for integrated coastal zone management and development, drawing on existing experience. A global conference to exchange experience in the field could be held before 1994.

Means of implementation

A) Financing and cost evaluation

17.12. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$6 billion including about \$50 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technological means

17.13. States should cooperate in the development of necessary coastal systematic observation, research and information management systems. They should provide access to and transfer environmentally safe technologies and methodologies for sustainable development of coastal and marine areas to developing countries. They should also develop technologies and endogenous scientific and technological capacities.

17.14. International organizations, whether subregional, regional or global, as appropriate, should support coastal States, upon request, in these efforts, as indicated above, devoting special attention to developing countries.

C) Human resource development

17.15. Coastal States should promote and facilitate the organization of education and training in integrated coastal and marine management and sustainable development for scientists, technologists, managers (including community-based managers) and users, leaders, indigenous peoples, fisherfolk, women and youth, among others. Management and development, as well as environmental protection concerns and local planning issues, should be incorporated in educational curricula and public awareness campaigns, with due regard to traditional ecological knowledge and socio-cultural values.

17.16. International organizations, whether subregional, regional or global, as appropriate, should support coastal States, upon request, in the areas indicated above, devoting special attention to developing countries.

D) Capacity-building

17.17. Full cooperation should be extended, upon request, to coastal States in their capacity-building efforts and, where appropriate, capacity-building should be included in bilateral and multilateral development cooperation. Coastal States may consider, inter alia:

- (a) Ensuring capacity-building at the local level;
- (b) Consulting on coastal and marine issues with local administrations, the business community, the academic sector, resource user groups and the general public;
- (c) Coordinating sectoral programmes while building capacity;
- (d) Identifying existing and potential capabilities, facilities and needs for human resources development and scientific and technological infrastructure;
- (e) Developing scientific and technological means and research;
- (f) Promoting and facilitating human resource development and education;
- (g) Supporting "centres of excellence" in integrated coastal and marine resource management;
- (h) Supporting pilot demonstration programmes and projects in integrated coastal and marine management.

B. Marine environmental protection

Basis for action

17.18. Degradation of the marine environment can result from a wide range of sources. Land-based sources contribute 70 per cent of marine pollution, while maritime transport and dumping-at-sea activities contribute 10 per cent each. The contaminants that pose the greatest threat to the marine environment are, in variable order of importance and depending on differing national or regional situations, sewage, nutrients, synthetic organic compounds, sediments, litter and plastics, metals, radionuclides, oil/hydrocarbons and polycyclic aromatic hydrocarbons (PAHs). Many of the polluting substances originating from land-based sources are of particular concern to the marine environment since they exhibit at the same time toxicity, persistence and bioaccumulation in the food chain. There is currently no global scheme to address marine pollution from land-based sources.

17.19. Degradation of the marine environment can also result from a wide range of activities on land. Human settlements, land use, construction of coastal infrastructure, agriculture, forestry, urban development, tourism and industry can affect the marine environment. Coastal erosion and siltation are of particular concern.

17.20. Marine pollution is also caused by shipping and sea-based activities. Approximately 600,000 tons of oil enter the oceans each year as a result of normal shipping operations, accidents and illegal discharges. With respect to offshore oil and gas activities, currently machinery space discharges are regulated internationally and six regional conventions to control platform discharges have been under consideration. The nature and extent of environmental impacts from offshore oil exploration and production activities generally account for a very small proportion of marine pollution.

17.21. A precautionary and anticipatory rather than a reactive approach is necessary to prevent the degradation of the marine environment. This requires, inter alia, the adoption of precautionary measures, environmental impact assessments, clean production techniques, recycling, waste audits and minimization, construction and/or improvement of sewage treatment facilities, quality management criteria for the proper handling of hazardous substances, and a comprehensive approach to damaging impacts from air, land and water. Any management framework must include the improvement of coastal human settlements and the integrated management and development of coastal areas.

Objectives

17.22. States, in accordance with the provisions of the United Nations Convention on the Law of the Sea on protection and preservation of the marine environment, commit themselves, in accordance with their policies, priorities and resources, to prevent, reduce and control degradation of the marine environment so as to maintain and improve its life-support and productive capacities. To this end, it is necessary to:

(a) Apply preventive, precautionary and anticipatory approaches so as to avoid

degradation of the marine environment, as well as to reduce the risk of long-term or irreversible adverse effects upon it;

- (b) Ensure prior assessment of activities that may have significant adverse impacts upon the marine environment;
- (c) Integrate protection of the marine environment into relevant general environmental, social and economic development policies;
- (d) Develop economic incentives, where appropriate, to apply clean technologies and other means consistent with the internalization of environmental costs, such as the polluter pays principle, so as to avoid degradation of the marine environment;
- (e) Improve the living standards of coastal populations, particularly in developing countries, so as to contribute to reducing the degradation of the coastal and marine environment.

17.23. States agree that provision of additional financial resources, through appropriate international mechanisms, as well as access to cleaner technologies and relevant research, would be necessary to support action by developing countries to implement this commitment.

Activities

A) Management-related activities

Prevention, reduction and control of degradation of the marine environment from land-based activities

17.24. In carrying out their commitment to deal with degradation of the marine environment from land-based activities, States should take action at the national level and, where appropriate, at the regional and subregional levels, in concert with action to implement programme area A, and should take account of the Montreal Guidelines for the Protection of the Marine Environment from Land-Based Sources.

17.25. To this end, States, with the support of the relevant international environmental, scientific, technical and financial organizations, should cooperate, inter alia, to:

- (a) Consider updating, strengthening and extending the Montreal Guidelines, as appropriate;
- (b) Assess the effectiveness of existing regional agreements and action plans, where appropriate, with a view to identifying means of strengthening action, where necessary, to prevent, reduce and control marine degradation caused by land-based activities;
- (c) Initiate and promote the development of new regional agreements, where appropriate;
- (d) Develop means of providing guidance on technologies to deal with the major types of pollution of the marine environment from land-based sources, according to the best scientific evidence;
- (e) Develop policy guidance for relevant global funding mechanisms;
- (f) Identify additional steps requiring international cooperation.

17.26. The UNEP Governing Council is invited to convene, as soon as practicable, an intergovernmental meeting on protection of the marine environment from land-based activities.

17.27. As concerns sewage, priority actions to be considered by States may include:

- (a) Incorporating sewage concerns when formulating or reviewing coastal development plans, including human settlement plans;
- (b) Building and maintaining sewage treatment facilities in accordance with national policies and capacities and international cooperation available;
- (c) Locating coastal outfalls so as to maintain an acceptable level of environmental quality and to avoid exposing shell fisheries, water intakes and bathing areas to pathogens;
- (d) Promoting environmentally sound co-treatments of domestic and compatible industrial effluents, with the introduction, where practicable, of controls on the entry of effluents that are not compatible with the system;
- (e) Promoting primary treatment of municipal sewage discharged to rivers, estuaries and the sea, or other solutions appropriate to specific sites;
- (f) Establishing and improving local, national, subregional and regional, as necessary, regulatory and monitoring programmes to control effluent discharge, using minimum sewage effluent guidelines and water quality criteria and giving due consideration to the characteristics of receiving bodies and the volume and type of pollutants.

17.28. As concerns other sources of pollution, priority actions to be considered by States may include:

- (a) Establishing or improving, as necessary, regulatory and monitoring programmes to control effluent discharges and emissions, including the development and application of control and recycling technologies;
- (b) Promoting risk and environmental impact assessments to help ensure an acceptable level of environmental quality;
- (c) Promoting assessment and cooperation at the regional level, where appropriate, with respect to the input of point source pollutants from new installations;
- (d) Eliminating the emission or discharge of organohalogen compounds that threaten to accumulate to dangerous levels in the marine environment;
- (e) Reducing the emission or discharge of other synthetic organic compounds that threaten to accumulate to dangerous levels in the marine environment;
- (f) Promoting controls over anthropogenic inputs of nitrogen and phosphorus that enter coastal waters where such problems as eutrophication threaten the marine environment or its resources;
- (g) Cooperating with developing countries, through financial and technological support, to maximize the best practicable control and reduction of substances and wastes that are toxic, persistent or liable to bio-accumulate and to establish environmentally sound land-based waste disposal alternatives to sea dumping;
- (h) Cooperating in the development and implementation of environmentally sound land-use techniques and practices to reduce run-off to water-courses and estuaries which would cause pollution or degradation of the marine environment;
- (i) Promoting the use of environmentally less harmful pesticides and fertilizers and

alternative methods for pest control, and considering the prohibition of those found to be environmentally unsound;

(j) Adopting new initiatives at national, subregional and regional levels for controlling the input of non-point source pollutants, which require broad changes in sewage and waste management, agricultural practices, mining, construction and transportation.

17.29. As concerns physical destruction of coastal and marine areas causing degradation of the marine environment, priority actions should include control and prevention of coastal erosion and siltation due to anthropogenic factors related to, inter alia, land-use and construction techniques and practices. Watershed management practices should be promoted so as to prevent, control and reduce degradation of the marine environment.

Prevention, reduction and control of degradation of the marine environment from sea-based activities

17.30. States, acting individually, bilaterally, regionally or multilaterally and within the framework of IMO and other relevant international organizations, whether subregional, regional or global, as appropriate, should assess the need for additional measures to address degradation of the marine environment:

(a) From shipping, by:

- Supporting wider ratification and implementation of relevant shipping conventions and protocols;
- Facilitating the processes in (i), providing support to individual States upon request to help them overcome the obstacles identified by them;
- Cooperating in monitoring marine pollution from ships, especially from illegal discharges (e.g., aerial surveillance), and enforcing MARPOL discharge, provisions more rigorously;
- Assessing the state of pollution caused by ships in particularly sensitive areas identified by IMO and taking action to implement applicable measures, where necessary, within such areas to ensure compliance with generally accepted international regulations;
- Taking action to ensure respect of areas designated by coastal States, within their exclusive economic zones, consistent with international law, in order to protect and preserve rare or fragile ecosystems, such as coral reefs and mangroves;
- Considering the adoption of appropriate rules on ballast water discharge to prevent the spread of non-indigenous organisms;
- Promoting navigational safety by adequate charting of coasts and ship-routing, as appropriate;
- Assessing the need for stricter international regulations to further reduce the risk of accidents and pollution from cargo ships (including bulk carriers);
- Encouraging IMO and IAEA to work together to complete consideration of a code on the carriage of irradiated nuclear fuel in flasks on board ships;
- Revising and updating the IMO Code of Safety for Nuclear Merchant Ships and considering how best to implement a revised code;

- Supporting the ongoing activity within IMO regarding development of appropriate measures for reducing air pollution from ships;
- Supporting the ongoing activity within IMO regarding the development of an international regime governing the transportation of hazardous and noxious substances carried by ships and further considering whether the compensation funds similar to the ones established under the Fund Convention would be appropriate in respect of pollution damage caused by substances other than oil;

(b) From dumping, by:

- Supporting wider ratification, implementation and participation in relevant Conventions on dumping at sea, including early conclusion of a future strategy for the London Dumping Convention;
- Encouraging the London Dumping Convention parties to take appropriate steps to stop ocean dumping and incineration of hazardous substances;

(c) From offshore oil and gas platforms, by assessing existing regulatory measures to address discharges, emissions and safety and assessing the need for additional measures;

(d) From ports, by facilitating establishment of port reception facilities for the collection of oily and chemical residues and garbage from ships, especially in MARPOL special areas, and promoting the establishment of smaller scale facilities in marinas and fishing harbours.

17.31. IMO and as appropriate, other competent United Nations organizations, when requested by the States concerned, should assess, where appropriate, the state of marine pollution in areas of congested shipping, such as heavily used international straits, with a view to ensuring compliance with generally accepted international regulations, particularly those related to illegal discharges from ships, in accordance with the provisions of Part III of the United Nations Convention on the Law of the Sea.

17.32. States should take measures to reduce water pollution caused by organotin compounds used in anti-fouling paints.

17.33. States should consider ratifying the Convention on Oil Pollution Preparedness, Response and Cooperation, which addresses, inter alia, the development of contingency plans on the national and international level, as appropriate, including provision of oil-spill response material and training of personnel, including its possible extension to chemical spill response.

17.34. States should intensify international cooperation to strengthen or establish, where necessary, regional oil/chemical-spill response centres and/or, as appropriate, mechanisms in cooperation with relevant subregional, regional or global intergovernmental organizations and, where appropriate, industry-based organizations.

B) Data and information

17.35. States should, as appropriate, and in accordance with the means at their disposal and with due regard for their technical and scientific capacity and resources, make systematic observations on the state of the marine environment. To this end, States should, as appropriate, consider:

- (a) Establishing systematic observation systems to measure marine environmental quality, including causes and effects of marine degradation, as a basis for management;
- (b) Regularly exchanging information on marine degradation caused by land-based and sea-based activities and on actions to prevent, control and reduce such degradation;
- (c) Supporting and expanding international programmes for systematic observations such as the mussel watch programme, building on existing facilities with special attention to developing countries;
- (d) Establishing a clearing-house on marine pollution control information, including processes and technologies to address marine pollution control and to support their transfer to developing countries and other countries with demonstrated needs;
- (e) Establishing a global profile and database providing information on the sources, types, amounts and effects of pollutants reaching the marine environment from land-based activities in coastal areas and sea-based sources;
- (f) Allocating adequate funding for capacity-building and training programmes to ensure the full participation of developing countries, in particular, in any international scheme under the organs and organizations of the United Nations system for the collection, analysis and use of data and information.

Means of implementation

A) Financing and cost evaluation

17.36. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$200 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technological means

17.37. National, subregional and regional action programmes will, where appropriate, require technology transfer, in conformity with chapter 34, and financial resources, particularly where developing countries are concerned, including:

- (a) Assistance to industries in identifying and adopting clean production or cost-effective pollution control technologies;
- (b) Planning development and application of low-cost and low-maintenance sewage

installation and treatment technologies for developing countries;

(c) Equipment of laboratories to observe systematically human and other impacts on the marine environment;

(d) Identification of appropriate oil- and chemical-spill control materials, including low-cost locally available materials and techniques, suitable for pollution emergencies in developing countries;

(e) Study of the use of persistent organohalogenes that are liable to accumulate in the marine environment to identify those that cannot be adequately controlled and to provide a basis for a decision on a time schedule for phasing them out as soon as practicable;

(f) Establishment of a clearing-house for information on marine pollution control, including processes and technologies to address marine pollution control, and support for their transfer to developing and other countries with demonstrated needs.

C) Human resource development

17.38. States individually or in cooperation with each other and with the support of international organizations, whether subregional, regional or global, as appropriate, should:

(a) Provide training for critical personnel required for the adequate protection of the marine environment as identified by training needs' surveys at the national, regional or subregional levels;

(b) Promote the introduction of marine environmental protection topics into the curriculum of marine studies programmes;

(c) Establish training courses for oil- and chemical-spill response personnel, in cooperation, where appropriate, with the oil and chemical industries;

(d) Conduct workshops on environmental aspects of port operations and development;

(e) Strengthen and provide secure financing for new and existing specialized international centres of professional maritime education;

(f) States should, through bilateral and multilateral cooperation, support and supplement the national efforts of developing countries as regards human resource development in relation to prevention and reduction of degradation of the marine environment.

D) Capacity-building

17.39. National planning and coordinating bodies should be given the capacity and authority to review all land-based activities and sources of pollution for their impacts on the marine environment and to propose appropriate control measures.

17.40. Research facilities should be strengthened or, where appropriate, developed in developing countries for systematic observation of marine pollution, environmental impact assessment and development of control recommendations and should be managed and staffed by local experts.

17.41. Special arrangements will be needed to provide adequate financial and technical resources to assist developing countries in preventing and solving problems associated

with activities that threaten the marine environment.

17.42. An international funding mechanism should be created for the application of appropriate sewage treatment technologies and building sewage treatment facilities, including grants or concessional loans from international agencies and appropriate regional funds, replenished at least in part on a revolving basis by user fees.

17.43. In carrying out these programme activities, particular attention needs to be given to the problems of developing countries that would bear an unequal burden because of their lack of facilities, expertise or technical capacities.

C. Sustainable use and conservation of marine living resources of the high seas

Basis for action

17.44. Over the last decade, fisheries on the high seas have considerably expanded and currently represent approximately 5 per cent of total world landings. The provisions of the United Nations Convention on the Law of the Sea on the marine living resources of the high seas sets forth rights and obligations of States with respect to conservation and utilization of those resources.

17.45. However, management of high seas fisheries, including the adoption, monitoring and enforcement of effective conservation measures, is inadequate in many areas and some resources are overutilized. There are problems of unregulated fishing, overcapitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States. Action by States whose nationals and vessels fish on the high seas, as well as cooperation at the bilateral, subregional, regional and global levels, is essential particularly for highly migratory species and straddling stocks. Such action and cooperation should address inadequacies in fishing practices, as well as in biological knowledge, fisheries statistics and improvement of systems for handling data. Emphasis should also be on multi-species management and other approaches that take into account the relationships among species, especially in addressing depleted species, but also in identifying the potential of underutilized or unutilized populations.

Objectives

17.46. States commit themselves to the conservation and sustainable use of marine living resources on the high seas. To this end, it is necessary to:

- (a) Develop and increase the potential of marine living resources to meet human nutritional needs, as well as social, economic and development goals;
- (b) Maintain or restore populations of marine species at levels that can produce the maximum sustainable yield as qualified by relevant environmental and economic factors, taking into consideration relationships among species;
- (c) Promote the development and use of selective fishing gear and practices that

minimize waste in the catch of target species and minimize by-catch of non-target species;

- (d) Ensure effective monitoring and enforcement with respect to fishing activities;
- (e) Protect and restore endangered marine species;
- (f) Preserve habitats and other ecologically sensitive areas;
- (g) Promote scientific research with respect to the marine living resources in the high seas.

17.47. Nothing in paragraph 17.46 above restricts the right of a State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals on the high seas more strictly than provided for in that paragraph. States shall cooperate with a view to the conservation of marine mammals and, in the case of cetaceans, shall in particular work through the appropriate international organizations for their conservation, management and study.

17.48. The ability of developing countries to fulfil the above objectives is dependent upon their capabilities, including the financial, scientific and technological means at their disposal. Adequate financial, scientific and technological cooperation should be provided to support action by them to implement these objectives.

Activities

A) Management-related activities

17.49. States should take effective action, including bilateral and multilateral cooperation, where appropriate at the subregional, regional and global levels, to ensure that high seas fisheries are managed in accordance with the provisions of the United Nations Convention on the Law of the Sea. In particular, they should:

- (a) Give full effect to these provisions with regard to fisheries populations whose ranges lie both within and beyond exclusive economic zones (straddling stocks);
- (b) Give full effect to these provisions with regard to highly migratory species;
- (c) Negotiate, where appropriate, international agreements for the effective management and conservation of fishery stocks;
- (d) Define and identify appropriate management units;
- (e) States should convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations
- (f) Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The conference, drawing, inter alia, on scientific and technical studies by FAO, should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of improving cooperation on fisheries among States, and formulate appropriate recommendations. The work and the results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal

States and States fishing on the high seas.

17.50. States should ensure that fishing activities by vessels flying their flags on the high seas take place in a manner so as to minimize incidental catch.

17.51. States should take effective action consistent with international law to monitor and control fishing activities by vessels flying their flags on the high seas to ensure compliance with applicable conservation and management rules, including full, detailed, accurate and timely reporting of catches and effort.

17.52. States should take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas.

17.53. States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

17.54. States should fully implement General Assembly resolution 46/215 on large-scale pelagic drift-net fishing.

17.55. States should take measures to increase the availability of marine living resources as human food by reducing wastage, post-harvest losses and discards, and improving techniques of processing, distribution and transportation.

B) Data and information

17.56. States, with the support of international organizations, whether subregional, regional or global, as appropriate, should cooperate to:

- (a) Promote enhanced collection of data necessary for the conservation and sustainable use of the marine living resources of the high seas;
- (b) Exchange on a regular basis up-to-date data and information adequate for fisheries assessment;
- (c) Develop and share analytical and predictive tools, such as stock assessment and bioeconomic models;
- (d) Establish or expand appropriate monitoring and assessment programmes.

C) International and regional cooperation and coordination

17.57. States, through bilateral and multilateral cooperation and within the framework of subregional and regional fisheries bodies, as appropriate, and with the support of other international intergovernmental agencies, should assess high seas resource potentials and develop profiles of all stocks (target and non-target).

17.58. States should, where and as appropriate, ensure adequate coordination and cooperation in enclosed and semi-enclosed seas and between subregional, regional and global intergovernmental fisheries bodies.

17.59. Effective cooperation within existing subregional, regional or global fisheries bodies should be encouraged. Where such organizations do not exist, States should, as appropriate, cooperate to establish such organizations.

17.60. States with an interest in a high seas fishery regulated by an existing subregional and/or regional high seas fisheries organization of which they are not members should be encouraged to join that organization, where appropriate.

17.61. States recognize:

- (a) The responsibility of the International Whaling Commission for the conservation and management of whale stocks and the regulation of whaling pursuant to the 1946 International Convention for the Regulation of Whaling;
- (b) The work of the International Whaling Commission Scientific Committee in carrying out studies of large whales in particular, as well as of other cetaceans;
- (c) The work of other organizations, such as the Inter-American Tropical Tuna Commission and the Agreement on Small Cetaceans in the Baltic and North Sea under the Bonn Convention, in the conservation, management and study of cetaceans and other marine mammals.

17.62. States should cooperate for the conservation, management and study of cetaceans.

Means of implementation

A) Financing and cost evaluation

17.63. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$12 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technological means

17.64. States, with the support of relevant international organizations, where necessary, should develop collaborative technical and research programmes to improve understanding of the life cycles and migrations of species found on the high seas, including identifying critical areas and life stages.

17.65. States, with the support of relevant international organizations, whether subregional, regional or global, as appropriate, should:

- (a) Develop databases on the high seas marine living resources and fisheries;
- (b) Collect and correlate marine environmental data with high seas marine living resources data, including the impacts of regional and global changes brought about by

natural causes and by human activities;

(c) Cooperate in coordinating research programmes to provide the knowledge necessary to manage high seas resources.

C) Human resource development

17.66. Human resource development at the national level should be targeted at both development and management of high seas resources, including training in high seas fishing techniques and in high seas resource assessment, strengthening cadres of personnel to deal with high seas resource management and conservation and related environmental issues, and training observers and inspectors to be placed on fishing vessels.

D) Capacity-building

17.67. States, with the support, where appropriate, of relevant international organizations, whether subregional, regional or global, should cooperate to develop or upgrade systems and institutional structures for monitoring, control and surveillance, as well as the research capacity for assessment of marine living resource populations.

17.68. Special support, including cooperation among States, will be needed to enhance the capacities of developing countries in the areas of data and information, scientific and technological means, and human resource development in order to participate effectively in the conservation and sustainable utilization of high seas marine living resources.

D. Sustainable use and conservation of marine living resources under national jurisdiction

Basis for action

17.69. Marine fisheries yield 80 to 90 million tons of fish and shellfish per year, 95 per cent of which is taken from waters under national jurisdiction. Yields have increased nearly fivefold over the past four decades. The provisions of the United Nations Convention on the Law of the Sea on marine living resources of the exclusive economic zone and other areas under national jurisdiction set forth rights and obligations of States with respect to conservation and utilization of those resources.

17.70. Marine living resources provide an important source of protein in many countries and their use is often of major importance to local communities and indigenous people. Such resources provide food and livelihoods to millions of people and, if sustainably utilized, offer increased potential to meet nutritional and social needs, particularly in developing countries. To realize this potential requires improved knowledge and identification of marine living resource stocks, particularly of underutilized and unutilized stocks and species, use of new technologies, better handling and processing facilities to avoid wastage, and improved quality and training of skilled personnel to manage and conserve effectively the marine living resources of the exclusive economic zone and other areas under national jurisdiction. Emphasis should also be on multi-

species management and other approaches that take into account the relationships among species.

17.71. Fisheries in many areas under national jurisdiction face mounting problems, including local overfishing, unauthorized incursions by foreign fleets, ecosystem degradation, overcapitalization and excessive fleet sizes, underevaluation of catch, insufficiently selective gear, unreliable databases, and increasing competition between artisanal and large-scale fishing, and between fishing and other types of activities.

17.72. Problems extend beyond fisheries. Coral reefs and other marine and coastal habitats, such as mangroves and estuaries, are among the most highly diverse, integrated and productive of the Earth's ecosystems. They often serve important ecological functions, provide coastal protection, and are critical resources for food, energy, tourism and economic development. In many parts of the world, such marine and coastal systems are under stress or are threatened from a variety of sources, both human and natural.

Objectives

17.73. Coastal States, particularly developing countries and States whose economies are overwhelmingly dependent on the exploitation of the marine living resources of their exclusive economic zones, should obtain the full social and economic benefits from sustainable utilization of marine living resources within their exclusive economic zones and other areas under national jurisdiction.

17.74. States commit themselves to the conservation and sustainable use of marine living resources under national jurisdiction. To this end, it is necessary to:

- (a) Develop and increase the potential of marine living resources to meet human nutritional needs, as well as social, economic and development goals;
- (b) Take into account traditional knowledge and interests of local communities, small-scale artisanal fisheries and indigenous people in development and management programmes;
- (c) Maintain or restore populations of marine species at levels that can produce the maximum sustainable yield as qualified by relevant environmental and economic factors, taking into consideration relationships among species;
- (d) Promote the development and use of selective fishing gear and practices that minimize waste in the catch of target species and minimize by-catch of non-target species;
- (e) Protect and restore endangered marine species;
- (f) Preserve rare or fragile ecosystems, as well as habitats and other ecologically sensitive areas.

17.75. Nothing in paragraph 17.74 above restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in that paragraph. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations

for their conservation, management and study.

17.76. The ability of developing countries to fulfil the above objectives is dependent upon their capabilities, including the financial, scientific and technological means at their disposal. Adequate financial, scientific and technological cooperation should be provided to support action by them to implement these objectives.

Activities

A) Management-related activities

17.77. States should ensure that marine living resources of the exclusive economic zone and other areas under national jurisdiction are conserved and managed in accordance with the provisions of the United Nations Convention on the Law of the Sea.

17.78. States, in implementing the provisions of the United Nations Convention on the Law of the Sea, should address the issues of straddling stocks and highly migratory species, and, taking fully into account the objective set out in paragraph 17.73, access to the surplus of allowable catches.

17.79. Coastal States, individually or through bilateral and/or multilateral cooperation and with the support, as appropriate of international organizations, whether subregional, regional or global, should inter alia:

- (a) Assess the potential of marine living resources, including underutilized or unutilized stocks and species, by developing inventories, where necessary, for their conservation and sustainable use;
- (b) Implement strategies for the sustainable use of marine living resources, taking into account the special needs and interests of small-scale artisanal fisheries, local communities and indigenous people to meet human nutritional and other development needs;
- (c) Implement, in particular in developing countries, mechanisms to develop mariculture, aquaculture and small-scale, deep-sea and oceanic fisheries within areas under national jurisdiction where assessments show that marine living resources are potentially available;
- (d) Strengthen their legal and regulatory frameworks, where appropriate, including management, enforcement and surveillance capabilities, to regulate activities related to the above strategies;
- (e) Take measures to increase the availability of marine living resources as human food by reducing wastage, post-harvest losses and discards, and improving techniques of processing, distribution and transportation;
- (f) Develop and promote the use of environmentally sound technology under criteria compatible with the sustainable use of marine living resources, including assessment of the environmental impact of major new fishery practices;
- (g) Enhance the productivity and utilization of their marine living resources for food and income.

17.80. Coastal States should explore the scope for expanding recreational and tourist activities based on marine living resources, including those for providing alternative sources of income. Such activities should be compatible with conservation and sustainable development policies and plans.

17.81. Coastal States should support the sustainability of small-scale artisanal fisheries. To this end, they should, as appropriate:

- (a) Integrate small-scale artisanal fisheries development in marine and coastal planning, taking into account the interests and, where appropriate, encouraging representation of fishermen, small-scale fisherworkers, women, local communities and indigenous people;
- (b) Recognize the rights of small-scale fishworkers and the special situation of indigenous people and local communities, including their rights to utilization and protection of their habitats on a sustainable basis;
- (b) Develop systems for the acquisition and recording of traditional knowledge concerning marine living resources and environment and promote the incorporation of such knowledge into management systems.

17.82. Coastal States should ensure that, in the negotiation and implementation of international agreements on the development or conservation of marine living resources, the interests of local communities and indigenous people are taken into account, in particular their right to subsistence.

17.83. Coastal States, with the support, as appropriate, of international organizations should conduct analyses of the potential for aquaculture in marine and coastal areas under national jurisdiction and apply appropriate safeguards as to the introduction of new species.

17.84. States should prohibit dynamiting, poisoning and other comparable destructive fishing practices.

17.85. States should identify marine ecosystems exhibiting high levels of biodiversity and productivity and other critical habitat areas and should provide necessary limitations on use in these areas, through, inter alia, designation of protected areas. Priority should be accorded, as appropriate, to:

- (a) Coral reef ecosystems;
 - (b) Estuaries;
 - (c) Temperate and tropical wetlands, including mangroves;
 - (d) Seagrass beds;
 - (e) Other spawning and nursery areas.
- B) Data and information

17.86. States, individually or through bilateral and multilateral cooperation and with the support, as appropriate, of international organizations, whether subregional, regional or global, should:

- (a) Promote enhanced collection and exchange of data necessary for the conservation

- and sustainable use of the marine living resources under national jurisdiction;
- (b) Exchange on a regular basis up-to-date data and information necessary for fisheries assessment;
 - (c) Develop and share analytical and predictive tools, such as stock assessment and bioeconomic models;
 - (d) Establish or expand appropriate monitoring and assessment programmes;
 - (e) Complete or update marine biodiversity, marine living resource and critical habitat profiles of exclusive economic zones and other areas under national jurisdiction, taking account of changes in the environment brought about by natural causes and human activities.
- C) International and regional cooperation and coordination

17.87. States, through bilateral and multilateral cooperation, and with the support of relevant United Nations and other international organizations, should cooperate to:

- (a) Develop financial and technical cooperation to enhance the capacities of developing countries in small-scale and oceanic fisheries, as well as in coastal aquaculture and mariculture;
- (b) Promote the contribution of marine living resources to eliminate malnutrition and to achieve food self-sufficiency in developing countries, inter alia, by minimizing post-harvest losses and managing stocks for guaranteed sustainable yields;
- (c) Develop agreed criteria for the use of selective fishing gear and practices to minimize waste in the catch of target species and minimize by-catch of non-target species;
- (d) Promote seafood quality, including through national quality assurance systems for seafood, in order to promote access to markets, improve consumer confidence and maximize economic returns.

17.88. States should, where and as appropriate, ensure adequate coordination and cooperation in enclosed and semi-enclosed seas and between subregional, regional and global intergovernmental fisheries bodies.

17.89. States recognize:

- (a) The responsibility of the International Whaling Commission for the conservation and management of whale stocks and the regulation of whaling pursuant to the 1946 International Convention for the Regulation of Whaling;
- (b) The work of the International Whaling Commission Scientific Committee in carrying out studies of large whales in particular, as well as of other cetaceans;
- (c) The work of other organizations, such as the Inter-American Tropical Tuna Commission and the Agreement on Small Cetaceans in the Baltic and North Sea under the Bonn Convention, in the conservation, management and study of cetaceans and other marine mammals.

17.90. States should cooperate for the conservation, management and study of cetaceans.

Means of implementation

A) Financing and cost evaluation

17.91. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$6 billion, including about \$60 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technological means

17.92. States, with the support of relevant intergovernmental organizations, as appropriate, should:

- (a) Provide for the transfer of environmentally sound technologies to develop fisheries, aquaculture and mariculture, particularly to developing countries;
- (b) Accord special attention to mechanisms for transferring resource information and improved fishing and aquaculture technologies to fishing communities at the local level;
- (c) Promote the study, scientific assessment and use of appropriate traditional management systems;
- (d) Consider observing, as appropriate, the FAO/ICES Code of Practice for Consideration of Transfer and Introduction of Marine and Freshwater Organisms;
- (e) Promote scientific research on marine areas of particular importance for marine living resources, such as areas of high diversity, endemism and productivity and migratory stopover points.

C) Human resource development

17.93. States individually, or through bilateral and multilateral cooperation and with the support of relevant international organizations, whether subregional, regional or global, as appropriate, should encourage and provide support for developing countries, inter alia, to:

- (a) Expand multidisciplinary education, training and research on marine living resources, particularly in the social and economic sciences;
- (b) Create training opportunities at national and regional levels to support artisanal (including subsistence) fisheries, to develop small-scale use of marine living resources and to encourage equitable participation of local communities, small-scale fish workers, women and indigenous people;
- (c) Introduce topics relating to the importance of marine living resources in educational curricula at all levels.

D) Capacity-building

17.94. Coastal States, with the support of relevant subregional, regional and global agencies, where appropriate, should:

- (a) Develop research capacities for assessment of marine living resource populations and monitoring;
- (b) Provide support to local fishing communities, in particular those that rely on fishing for subsistence, indigenous people and women, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional knowledge of marine living resources and fishing techniques, and upgrade knowledge on marine ecosystems;
- (c) Establish sustainable aquaculture development strategies, including environmental management in support of rural fish-farming communities;
- (d) Develop and strengthen, where the need may arise, institutions capable of implementing the objectives and activities related to the conservation and management of marine living resources.

17.95. Special support, including cooperation among States, will be needed to enhance the capacities of developing countries in the areas of data and information, scientific and technological means and human resource development in order to enable them to participate effectively in the conservation and sustainable use of marine living resources under national jurisdiction.

E. Addressing critical uncertainties for the management of the marine environment and climate change

Basis for action

17.96. The marine environment is vulnerable and sensitive to climate and atmospheric changes. Rational use and development of coastal areas, all seas and marine resources, as well as conservation of the marine environment, requires the ability to determine the present state of these systems and to predict future conditions. The high degree of uncertainty in present information inhibits effective management and limits the ability to make predictions and assess environmental change. Systematic collection of data on marine environmental parameters will be needed to apply integrated management approaches and to predict effects of global climate change and of atmospheric phenomena, such as ozone depletion, on living marine resources and the marine environment. In order to determine the role of the oceans and all seas in driving global systems and to predict natural and human-induced changes in marine and coastal environments, the mechanisms to collect, synthesize and disseminate information from research and systematic observation activities need to be restructured and reinforced considerably.

17.97. There are many uncertainties about climate change and particularly about sealevel rise. Small increases in sealevel have the potential of causing significant damage to small islands and low-lying coasts. Response strategies should be based on sound data. A long-

term cooperative research commitment is needed to provide the data required for global climate models and to reduce uncertainty. Meanwhile, precautionary measures should be undertaken to diminish the risks and effects, particularly on small islands and on low-lying and coastal areas of the world.

17.98. Increased ultraviolet radiation derived from ozone depletion has been reported in some areas of the world. An assessment of its effects in the marine environment is needed to reduce uncertainty and to provide a basis for action.

Objectives

17.99. States, in accordance with provisions of the United Nations Convention on the Law of the Sea on marine scientific research, commit themselves to improve the understanding of the marine environment and its role on global processes. To this end, it is necessary to:

- (a) Promote scientific research on and systematic observation of the marine environment within the limits of national jurisdiction and high seas, including interactions with atmospheric phenomena, such as ozone depletion;
- (b) Promote exchange of data and information resulting from scientific research and systematic observation and from traditional ecological knowledge and ensure its availability to policy makers and the public at the national level;
- (c) Cooperate with a view to the development of standard inter-calibrated procedures, measuring techniques, data storage and management capabilities for scientific research on and systematic observation of the marine environment.

Activities

A) Management-related activities

17.100. States should consider, inter alia:

- (a) Coordinating national and regional observation programmes for coastal and near-shore phenomena related to climate change and for research parameters essential for marine and coastal management in all regions;
- (b) Providing improved forecasts of marine conditions for the safety of inhabitants of coastal areas and for the efficiency of maritime operations;
- (c) Cooperating with a view to adopting special measures to cope with and adapt to potential climate change and sealevel rise, including the development of globally accepted methodologies for coastal vulnerability assessment, modelling and response strategies particularly for priority areas, such as small islands and low-lying and critical coastal areas;
- (d) Identifying ongoing and planned programmes of systematic observation of the marine environment, with a view to integrating activities and establishing priorities to address critical uncertainties for oceans and all seas;

(e) Initiating a programme of research to determine the marine biological effects of increased levels of ultraviolet rays due to the depletion of the stratospheric ozone layer and to evaluate the possible effects.

17.101. Recognizing the important role that oceans and all seas play in attenuating potential climate change, IOC and other relevant competent United Nations bodies, with the support of countries having the resources and expertise, should carry out analysis, assessments and systematic observation of the role of oceans as a carbon sink.

B) Data and information

17.102. States should consider, inter alia:

- (a) Increasing international cooperation particularly with a view to strengthening national scientific and technological capabilities for analysing, assessing and predicting global climate and environmental change;
- (b) Supporting the role of the IOC in cooperation with WMO, UNEP and other international organizations in the collection, analysis and distribution of data and information from the oceans and all seas, including as appropriate, through the Global Ocean Observing System, giving special attention to the need for IOC to develop fully the strategy for providing training and technical assistance for developing countries through its Training, Education and Mutual Assistance (TEMA) programme;
- (c) Creating national multisectoral information bases, covering the results of research and systematic observation programmes;
- (d) Linking these databases to existing data and information services and mechanisms, such as World Weather Watch and Earthwatch;
- (e) Cooperating with a view to the exchange of data and information and its storage and archiving through the world and regional data centres;
- (f) Cooperating to ensure full participation of developing countries, in particular, in any international scheme under the organs and organizations of the United Nations system for the collection, analysis and use of data and information.

C) International and regional cooperation and coordination

17.103. States should consider bilaterally and multilaterally and in cooperation with international organizations, whether subregional, regional, interregional or global, where appropriate:

- (a) Providing technical cooperation in developing the capacity of coastal and island States for marine research and systematic observation and for using its results;
- (b) Strengthening existing national institutions and creating, where necessary, international analysis and prediction mechanisms in order to prepare and exchange regional and global oceanographic analyses and forecasts and to provide facilities for international research and training at national, subregional and regional levels, where applicable.

17.104. In recognition of the value of Antarctica as an area for the conduct of scientific research, in particular research essential to understanding the global environment, States

carrying out such research activities in Antarctica should, as provided for in Article III of the Antarctic Treaty, continue to:

- (a) Ensure that data and information resulting from such research are freely available to the international community;
- (b) Enhance access of the international scientific community and specialized agencies of the United Nations to such data and information, including the encouragement of periodic seminars and symposia.

17.105. States should strengthen high-level inter-agency, subregional, regional and global coordination, as appropriate, and review mechanisms to develop and integrate systematic observation networks. This would include:

- (a) Review of existing regional and global databases;
- (b) Mechanisms to develop comparable and compatible techniques, validate methodologies and measurements, organize regular scientific reviews, develop options for corrective measures, agree on formats for presentation and storage, and communicate the information gathered to potential users;
- (c) Systematic observation of coastal habitats and sealevel changes, inventories of marine pollution sources and reviews of fisheries statistics;
- (d) Organization of periodic assessments of ocean and all seas and coastal area status and trends.

17.106. International cooperation, through relevant organizations within the United Nations system, should support countries to develop and integrate regional systematic long-term observation programmes, when applicable, into the Regional Seas Programmes in a coordinated fashion to implement, where appropriate, subregional, regional and global observing systems based on the principle of exchange of data. One aim should be the predicting of the effects of climate-related emergencies on existing coastal physical and socio-economic infrastructure.

17.107. Based on the results of research on the effects of the additional ultraviolet radiation reaching the Earth's surface, in the fields of human health, agriculture and marine environment, States and international organizations should consider taking appropriate remedial measures.

Means of implementation

A) Financing and cost evaluation

17.108. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$750 million, including about \$480 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-

concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

17.109. Developed countries should provide the financing for the further development and implementation of the Global Ocean Observing System.

B) Scientific and technological means

17.110. To address critical uncertainties through systematic coastal and marine observations and research, coastal States should cooperate in the development of procedures that allow for comparable analysis and soundness of data. They should also cooperate on a subregional and regional basis, through existing programmes where applicable, share infrastructure and expensive and sophisticated equipment, develop quality assurance procedures and develop human resources jointly. Special attention should be given to transfer of scientific and technological knowledge and means to support States, particularly developing countries, in the development of endogenous capabilities.

17.111. International organizations should support, when requested, coastal countries in implementing research projects on the effects of additional ultraviolet radiation.

C) Human resource development

17.112. States, individually or through bilateral and multilateral cooperation and with the support, as appropriate, of international organizations whether subregional, regional or global, should develop and implement comprehensive programmes, particularly in developing countries, for a broad and coherent approach to meeting their core human resource needs in the marine sciences.

(d) Capacity-building

17.113. States should strengthen or establish as necessary, national scientific and technological oceanographic commissions or equivalent bodies to develop, support and coordinate marine science activities and work closely with international organizations.

17.114. States should use existing subregional and regional mechanisms, where applicable, to develop knowledge of the marine environment, exchange information, organize systematic observations and assessments, and make the most effective use of scientists, facilities and equipment. They should also cooperate in the promotion of endogenous research capabilities in developing countries.

F. Strengthening international, including regional, cooperation and coordination

Basis for action

17.115. It is recognized that the role of international cooperation is to support and supplement national efforts. Implementation of strategies and activities under the

programme areas relative to marine and coastal areas and seas requires effective institutional arrangements at national, subregional, regional and global levels, as appropriate. There are numerous national and international, including regional, institutions, both within and outside the United Nations system, with competence in marine issues, and there is a need to improve coordination and strengthen links among them. It is also important to ensure that an integrated and multisectoral approach to marine issues is pursued at all levels.

Objectives

17.116. States commit themselves, in accordance with their policies, priorities and resources, to promote institutional arrangements necessary to support the implementation of the programme areas in this chapter. To this end, it is necessary, as appropriate, to:

- (a) Integrate relevant sectoral activities addressing environment and development in marine and coastal areas at national, subregional, regional and global levels, as appropriate;
- (b) Promote effective information exchange and, where appropriate, institutional linkages between bilateral and multilateral national, regional, subregional and interregional institutions dealing with environment and development in marine and coastal areas;
- (c) Promote within the United Nations system, regular intergovernmental review and consideration of environment and development issues with respect to marine and coastal areas;
- (d) Promote the effective operation of coordinating mechanisms for the components of the United Nations system dealing with issues of environment and development in marine and coastal areas, as well as links with relevant international development bodies.

Activities

A) Management-related activities

Global

17.117. The General Assembly should provide for regular consideration, within the United Nations system, at the intergovernmental level of general marine and coastal issues, including environment and development matters, and should request the Secretary-General and executive heads of United Nations agencies and organizations to:

- (a) Strengthen coordination and develop improved arrangements among the relevant United Nations organizations with major marine and coastal responsibilities, including their subregional and regional components;
- (b) Strengthen coordination between those organizations and other United Nations organizations, institutions and specialized agencies dealing with development, trade and other related economic issues, as appropriate;

- (c) Improve representation of United Nations agencies dealing with the marine environment in United Nations system-wide coordination efforts;
- (d) Promote, where necessary, greater collaboration between the United Nations agencies and subregional and regional coastal and marine programmes;
- (e) Develop a centralized system to provide for information on legislation and advice on implementation of legal agreements on marine environmental and development issues.

17.118. States recognize that environmental policies should deal with the root causes of environmental degradation, thus preventing environmental measures from resulting in unnecessary restrictions to trade. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing international environmental problems should, as far as possible, be based on an international consensus. Domestic measures targeted to achieve certain environmental objectives may need trade measures to render them effective. Should trade policy measures be found necessary for the enforcement of environmental policies, certain principles and rules should apply. These could include, inter alia, the principle of non-discrimination; the principle that the trade measure chosen should be the least trade-restrictive necessary to achieve the objectives; an obligation to ensure transparency in the use of trade measures related to the environment and to provide adequate notification of national regulations; and the need to give consideration to the special conditions and development requirements of developing countries as they move towards internationally agreed environmental objectives.

Subregional and regional

17.119. States should consider, as appropriate:

- Strengthening, and extending where necessary, intergovernmental regional cooperation, the Regional Seas Programmes of UNEP, regional and subregional fisheries organizations and regional commissions;
- Introduce, where necessary, coordination among relevant United Nations and other multilateral organizations at the subregional and regional levels, including consideration of co-location of their staff;
- Arrange for periodic intraregional consultations;
- Facilitate access to and use of expertise and technology through relevant national bodies to subregional and regional centres and networks, such as the Regional Centres for Marine Technology.

B) Data and information

17.120. States should, where appropriate:

- (a) Promote exchange of information on marine and coastal issues;
- (b) Strengthen the capacity of international organizations to handle information and support the development of national, subregional and regional data and information systems, where appropriate. This could also include networks linking countries with

comparable environmental problems;

(c) Further develop existing international mechanisms such as Earthwatch and GESAMP.

Means of implementation

A) Financing and cost evaluation

17.121. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$50 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technological means, human resource development and capacity-building

17.122. The means of implementation outlined in the other programme areas on marine and coastal issues, under the sections on Scientific and technological means, human resource development and capacity-building are entirely relevant for this programme area as well. Additionally, States should, through international cooperation, develop a comprehensive programme for meeting the core human resource needs in marine sciences at all levels.

G. Sustainable development of small islands

Basis for action

17.123. Small island developing States, and islands supporting small communities are a special case both for environment and development. They are ecologically fragile and vulnerable. Their small size, limited resources, geographic dispersion and isolation from markets, place them at a disadvantage economically and prevent economies of scale. For small island developing States the ocean and coastal environment is of strategic importance and constitutes a valuable development resource.

17.124. Their geographic isolation has resulted in their habitation of a comparatively large number of unique species of flora and fauna, giving them a very high share of global biodiversity. They also have rich and diverse cultures with special adaptations to island environments and knowledge of the sound management of island resources.

17.125. Small island developing States have all the environmental problems and challenges of the coastal zone concentrated in a limited land area. They are considered extremely vulnerable to global warming and sealevel rise, with certain small low-lying islands facing the increasing threat of the loss of their entire national territories. Most tropical islands are also now experiencing the more immediate impacts of increasing frequency of cyclones, storms and hurricanes associated with climate change. These are

causing major set-backs to their socio-economic development.

17.126. Because small island development options are limited, there are special challenges to planning for and implementing sustainable development. Small island developing States will be constrained in meeting these challenges without the cooperation and assistance of the international community.

Objectives

17.127. States commit themselves to addressing the problems of sustainable development of small island developing States. To this end, it is necessary:

- (a) To adopt and implement plans and programmes to support the sustainable development and utilization of their marine and coastal resources, including meeting essential human needs, maintaining biodiversity and improving the quality of life for island people;
- (b) To adopt measures which will enable small island developing States to cope effectively, creatively and sustainably with environmental change and to mitigate impacts and reduce the threats posed to marine and coastal resources.

Activities

A) Management-related activities

17.128. Small island developing States, with the assistance as appropriate of the international community and on the basis of existing work of national and international organizations, should:

- (a) Study the special environmental and developmental characteristics of small islands, producing an environmental profile and inventory of their natural resources, critical marine habitats and biodiversity;
- (b) Develop techniques for determining and monitoring the carrying capacity of small islands under different development assumptions and resource constraints;
- (c) Prepare medium- and long-term plans for sustainable development that emphasize multiple use of resources, integrate environmental considerations with economic and sectoral planning and policies, define measures for maintaining cultural and biological diversity and conserve endangered species and critical marine habitats;
- (d) Adapt coastal area management techniques, such as planning, siting and environmental impact assessments, using Geographical Information Systems (GIS), suitable to the special characteristics of small islands, taking into account the traditional and cultural values of indigenous people of island countries;
- (e) Review the existing institutional arrangements and identify and undertake appropriate institutional reforms essential to the effective implementation of sustainable development plans, including intersectoral coordination and community participation in the planning process;

- (f) Implement sustainable development plans, including the review and modification of existing unsustainable policies and practices;
- (g) Based on precautionary and anticipatory approaches, design and implement rational response strategies to address the environmental, social and economic impacts of climate change and sealevel rise, and prepare appropriate contingency plans;
- (h) Promote environmentally sound technology for sustainable development within small island developing States and identify technologies that should be excluded because of their threats to essential island ecosystems.

B) Data and information

17.129. Additional information on the geographic, environmental, cultural and socio-economic characteristics of islands should be compiled and assessed to assist in the planning process. Existing island databases should be expanded and geographic information systems developed and adapted to suit the special characteristics of islands.

C) International and regional cooperation and coordination

17.130. Small island developing States, with the support, as appropriate, of international organizations, whether subregional, regional or global, should develop and strengthen inter-island, regional and interregional cooperation and information exchange, including periodic regional and global meetings on sustainable development of small island developing States with the first global conference on the sustainable development of small island developing States, to be held in 1993.

17.131. International organizations, whether subregional, regional or global, must recognize the special development requirements of small island developing States and give adequate priority in the provision of assistance, particularly with respect to the development and implementation of sustainable development plans.

Means of implementation

A) Financing and cost evaluation

17.132. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities of this programme to be about \$130 million, including about \$50 million from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

B) Scientific and technical means

17.133. Centres for the development and diffusion of scientific information and advice on technical means and technologies appropriate to small island developing States, especially with reference to the management of the coastal zone, the exclusive economic

zone and marine resources, should be established or strengthened, as appropriate, on a regional basis.

C) Human resource development

17.134. Since populations of small island developing States cannot maintain all necessary specializations, training for integrated coastal management and development should aim to produce cadres of managers or scientists, engineers and coastal planners able to integrate the many factors that need to be considered in integrated coastal management. Resource users should be prepared to execute both management and protection functions and to apply the polluter pays principle and support the training of their personnel. Educational systems should be modified to meet these needs and special training programmes developed in integrated island management and development. Local planning should be integrated in educational curricula of all levels and public awareness campaigns developed with the assistance of non-governmental organizations and indigenous coastal populations.

D) Capacity-building

17.135. The total capacity of small island developing States will always be limited. Existing capacity must therefore be restructured to meet efficiently the immediate needs for sustainable development and integrated management. At the same time, adequate and appropriate assistance from the international community must be directed at strengthening the full range of human resources needed on a continuous basis to implement sustainable development plans.

17.136. New technologies that can increase the output and range of capability of the limited human resources should be employed to increase the capacity of very small populations to meet their needs. The development and application of traditional knowledge to improve the capacity of countries to implement sustainable development should be fostered.

Notes

1/ References to the United Nations Convention on the Law of the Sea in this chapter of Agenda 21 do not prejudice the position of any State with respect to signature, ratification of or accession to the Convention.

2/ References to the United Nations Convention on the Law of the Sea in this chapter of Agenda 21 do not prejudice the position of States which view the Convention as having a unified character.

3/ Nothing in the programme areas of this chapter should be interpreted as prejudicing the rights of the States involved in a dispute of sovereignty or in the delimitation of the maritime areas concerned.

**UNITED NATIONS FRAMEWORK CONVENTION
ON CLIMATE CHANGE**



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UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

The Parties to this Convention,

Acknowledging that change in the Earth's climate and its adverse effects are a common concern of humankind,

Concerned that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind,

Noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

Aware of the role and importance in terrestrial and marine ecosystems of sinks and reservoirs of greenhouse gases,

Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof,

Acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Recalling also that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

Recognizing that States should enact effective environmental legislation, that environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply, and that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries,

Recalling the provisions of General Assembly resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and Development, and resolutions 43/53 of 6 December 1988, 44/207 of 22 December 1989, 45/212 of 21 December 1990 and 46/169 of 19 December 1991 on protection of global climate for present and future generations of mankind,

Recalling also the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sea-level rise on islands and coastal areas, particularly low-lying coastal areas and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,

Recalling further the Vienna Convention for the Protection of the Ozone Layer, 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as adjusted and amended on 29 June 1990,

Noting the Ministerial Declaration of the Second World Climate Conference adopted on 7 November 1990,

Conscious of the valuable analytical work being conducted by many States on climate change and of the important contributions of the World Meteorological Organization, the United Nations Environment Programme and other organs, organizations and bodies of the United Nations system, as well as other international and intergovernmental bodies, to the exchange of results of scientific research and the coordination of research,

Recognizing that steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

Recognizing that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems,

Recognizing also the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at the global, national and, where agreed, regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect,

Recognizing further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

Recognizing the special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions,

Affirming that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty,

Recognizing that all countries, especially developing countries, need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling greenhouse gas emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial,

Determined to protect the climate system for present and future generations,

Have agreed as follows:

Article 1

DEFINITIONS*

For the purposes of this Convention:

1. “Adverse effects of climate change” means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.
2. “Climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.
3. “Climate system” means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.
4. “Emissions” means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time.
5. “Greenhouse gases” means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.
6. “Regional economic integration organization” means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

* Titles of articles are included solely to assist the reader.

7. “Reservoir” means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.
8. “Sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.
9. “Source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere.

Article 2

OBJECTIVE

The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Article 3

PRINCIPLES

In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.
2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.
3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Article 4

COMMITMENTS

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:

(a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties;

(b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change;

(c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors;

(d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;

(e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods;

(f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;

(g) Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;

(h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;

(i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations; and

(j) Communicate to the Conference of the Parties information related to implementation, in accordance with Article 12.

2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:

(a) Each of these Parties shall adopt national¹ policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

¹ This includes policies and measures adopted by regional economic integration organizations.

(b) In order to promote progress to this end, each of these Parties shall communicate, within six months of the entry into force of the Convention for it and periodically thereafter, and in accordance with Article 12, detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a), with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol. This information will be reviewed by the Conference of the Parties, at its first session and periodically thereafter, in accordance with Article 7;

(c) Calculations of emissions by sources and removals by sinks of greenhouse gases for the purposes of subparagraph (b) above should take into account the best available scientific knowledge, including of the effective capacity of sinks and the respective contributions of such gases to climate change. The Conference of the Parties shall consider and agree on methodologies for these calculations at its first session and review them regularly thereafter;

(d) The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met;

(e) Each of these Parties shall:

- (i) coordinate as appropriate with other such Parties, relevant economic and administrative instruments developed to achieve the objective of the Convention; and
- (ii) identify and periodically review its own policies and practices which encourage activities that lead to greater levels of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol than would otherwise occur;

(f) The Conference of the Parties shall review, not later than 31 December 1998, available information with a view to taking decisions regarding such amendments to the lists in Annexes I and II as may be appropriate, with the approval of the Party concerned;

(g) Any Party not included in Annex I may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by subparagraphs (a) and (b) above. The Depositary shall inform the other signatories and Parties of any such notification.

3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.

4. The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects.

5. The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies.

6. In the implementation of their commitments under paragraph 2 above, a certain degree of flexibility shall be allowed by the Conference of the Parties to the Parties included in Annex I undergoing the process of transition to a market economy, in order to enhance the ability of these Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.

7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

8. In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:

- (a) Small island countries;
- (b) Countries with low-lying coastal areas;
- (c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;

- (d) Countries with areas prone to natural disasters;
- (e) Countries with areas liable to drought and desertification;
- (f) Countries with areas of high urban atmospheric pollution;
- (g) Countries with areas with fragile ecosystems, including mountainous ecosystems;
- (h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and
- (i) Landlocked and transit countries.

Further, the Conference of the Parties may take actions, as appropriate, with respect to this paragraph.

9. The Parties shall take full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology.

10. The Parties shall, in accordance with Article 10, take into consideration in the implementation of the commitments of the Convention the situation of Parties, particularly developing country Parties, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change. This applies notably to Parties with economies that are highly dependent on income generated from the production, processing and export, and/or consumption of fossil fuels and associated energy-intensive products and/or the use of fossil fuels for which such Parties have serious difficulties in switching to alternatives.

Article 5

RESEARCH AND SYSTEMATIC OBSERVATION

In carrying out their commitments under Article 4, paragraph 1 (g), the Parties shall:

- (a) Support and further develop, as appropriate, international and intergovernmental programmes and networks or organizations aimed at defining, conducting, assessing and financing research, data collection and systematic observation, taking into account the need to minimize duplication of effort;
- (b) Support international and intergovernmental efforts to strengthen systematic observation and national scientific and technical research capacities and capabilities, particularly in developing countries, and to promote access to, and the exchange of, data and analyses thereof obtained from areas beyond national jurisdiction; and
- (c) Take into account the particular concerns and needs of developing countries and cooperate in improving their endogenous capacities and capabilities to participate in the efforts referred to in subparagraphs (a) and (b) above.

Article 6

EDUCATION, TRAINING AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

- (a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:
 - (i) the development and implementation of educational and public awareness programmes on climate change and its effects;
 - (ii) public access to information on climate change and its effects;
 - (iii) public participation in addressing climate change and its effects and developing adequate responses; and
 - (iv) training of scientific, technical and managerial personnel;
- (b) Cooperate in and promote, at the international level, and, where appropriate, using existing bodies:
 - (i) the development and exchange of educational and public awareness material on climate change and its effects; and
 - (ii) the development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

Article 7

CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established.
2. The Conference of the Parties, as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any related legal instruments that the Conference of the Parties may adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall:
 - (a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;

(b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(c) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(d) Promote and guide, in accordance with the objective and provisions of the Convention, the development and periodic refinement of comparable methodologies, to be agreed on by the Conference of the Parties, inter alia, for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases;

(e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication;

(g) Make recommendations on any matters necessary for the implementation of the Convention;

(h) Seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11;

(i) Establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;

(j) Review reports submitted by its subsidiary bodies and provide guidance to them;

(k) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies;

(l) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and

(m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention.

3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure as well as those of the subsidiary bodies established by the Convention, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.

4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in Article 21 and shall take place not later than one year after the date of entry into force of the Convention. Thereafter, ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties.

5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 8

SECRETARIAT

1. A secretariat is hereby established.

2. The functions of the secretariat shall be:

(a) To make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) To compile and transmit reports submitted to it;

(c) To facilitate assistance to the Parties, particularly developing country Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;

(d) To prepare reports on its activities and present them to the Conference of the Parties;

(e) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(f) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(g) To perform the other secretariat functions specified in the Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

3. The Conference of the Parties, at its first session, shall designate a permanent secretariat and make arrangements for its functioning.

Article 9

SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

1. A subsidiary body for scientific and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, and drawing upon existing competent international bodies, this body shall:

(a) Provide assessments of the state of scientific knowledge relating to climate change and its effects;

(b) Prepare scientific assessments on the effects of measures taken in the implementation of the Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes, international cooperation in research and development related to climate change, as well as on ways and means of supporting endogenous capacity-building in developing countries; and

(e) Respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions and terms of reference of this body may be further elaborated by the Conference of the Parties.

Article 10

SUBSIDIARY BODY FOR IMPLEMENTATION

1. A subsidiary body for implementation is hereby established to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention. This body shall be open to participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the Conference of the Parties on all aspects of its work.
2. Under the guidance of the Conference of the Parties, this body shall:
 - (a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change;
 - (b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2 (d); and
 - (c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

Article 11

FINANCIAL MECHANISM

1. A mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology, is hereby defined. It shall function under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to this Convention. Its operation shall be entrusted to one or more existing international entities.
2. The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.
3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:
 - (a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;
 - (b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;

(c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and

(d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.

4. The Conference of the Parties shall make arrangements to implement the above-mentioned provisions at its first session, reviewing and taking into account the interim arrangements referred to in Article 21, paragraph 3, and shall decide whether these interim arrangements shall be maintained. Within four years thereafter, the Conference of the Parties shall review the financial mechanism and take appropriate measures.

5. The developed country Parties may also provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels.

Article 12

COMMUNICATION OF INFORMATION RELATED TO IMPLEMENTATION

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:

(a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;

(b) A general description of steps taken or envisaged by the Party to implement the Convention; and

(c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.

2. Each developed country Party and each other Party included in Annex I shall incorporate in its communication the following elements of information:

(a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2 (a) and 2 (b); and

(b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2 (a).

3. In addition, each developed country Party and each other developed Party included in Annex II shall incorporate details of measures taken in accordance with Article 4, paragraphs 3, 4 and 5.
4. Developing country Parties may, on a voluntary basis, propose projects for financing, including specific technologies, materials, equipment, techniques or practices that would be needed to implement such projects, along with, if possible, an estimate of all incremental costs, of the reductions of emissions and increments of removals of greenhouse gases, as well as an estimate of the consequent benefits.
5. Each developed country Party and each other Party included in Annex I shall make its initial communication within six months of the entry into force of the Convention for that Party. Each Party not so listed shall make its initial communication within three years of the entry into force of the Convention for that Party, or of the availability of financial resources in accordance with Article 4, paragraph 3. Parties that are least developed countries may make their initial communication at their discretion. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties, taking into account the differentiated timetable set by this paragraph.
6. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Conference of the Parties and to any subsidiary bodies concerned. If necessary, the procedures for the communication of information may be further considered by the Conference of the Parties.
7. From its first session, the Conference of the Parties shall arrange for the provision to developing country Parties of technical and financial support, on request, in compiling and communicating information under this Article, as well as in identifying the technical and financial needs associated with proposed projects and response measures under Article 4. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate.
8. Any group of Parties may, subject to guidelines adopted by the Conference of the Parties, and to prior notification to the Conference of the Parties, make a joint communication in fulfilment of their obligations under this Article, provided that such a communication includes information on the fulfilment by each of these Parties of its individual obligations under the Convention.
9. Information received by the secretariat that is designated by a Party as confidential, in accordance with criteria to be established by the Conference of the Parties, shall be aggregated by the secretariat to protect its confidentiality before being made available to any of the bodies involved in the communication and review of information.
10. Subject to paragraph 9 above, and without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make communications by Parties under this Article publicly available at the time they are submitted to the Conference of the Parties.

Article 13

RESOLUTION OF QUESTIONS REGARDING IMPLEMENTATION

The Conference of the Parties shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention.

Article 14

SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Convention, it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice; and/or

(b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute otherwise agree.

5. Subject to the operation of paragraph 2 above, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a recommendatory award, which the parties shall consider in good faith.

7. Additional procedures relating to conciliation shall be adopted by the Conference of the Parties, as soon as practicable, in an annex on conciliation.

8. The provisions of this Article shall apply to any related legal instrument which the Conference of the Parties may adopt, unless the instrument provides otherwise.

Article 15

AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to the Convention.

2. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 16

ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION

1. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto. Without prejudice to the provisions of Article 14, paragraphs 2 (b) and 7, such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Annexes to the Convention shall be proposed and adopted in accordance with the procedure set forth in Article 15, paragraphs 2, 3 and 4.
3. An annex that has been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Convention six months after the date of the communication by the Depositary to such Parties of the adoption of the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex. The annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.
4. The proposal, adoption and entry into force of amendments to annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of annexes to the Convention in accordance with paragraphs 2 and 3 above.
5. If the adoption of an annex or an amendment to an annex involves an amendment to the Convention, that annex or amendment to an annex shall not enter into force until such time as the amendment to the Convention enters into force.

Article 17

PROTOCOLS

1. The Conference of the Parties may, at any ordinary session, adopt protocols to the Convention.
2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session.
3. The requirements for the entry into force of any protocol shall be established by that instrument.
4. Only Parties to the Convention may be Parties to a protocol.
5. Decisions under any protocol shall be taken only by the Parties to the protocol concerned.

Article 18

RIGHT TO VOTE

1. Each Party to the Convention shall have one vote, except as provided for in paragraph 2 below.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 19

DEPOSITARY

The Secretary-General of the United Nations shall be the Depositary of the Convention and of protocols adopted in accordance with Article 17.

Article 20

SIGNATURE

This Convention shall be open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations at Rio de Janeiro, during the United Nations Conference on Environment and Development, and thereafter at United Nations Headquarters in New York from 20 June 1992 to 19 June 1993.

Article 21

INTERIM ARRANGEMENTS

1. The secretariat functions referred to in Article 8 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 45/212 of 21 December 1990, until the completion of the first session of the Conference of the Parties.
2. The head of the interim secretariat referred to in paragraph 1 above will cooperate closely with the Intergovernmental Panel on Climate Change to ensure that the Panel can respond to the need for objective scientific and technical advice. Other relevant scientific bodies could also be consulted.
3. The Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis. In this connection, the Global Environment Facility should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11.

Article 22

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. The Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 23

ENTRY INTO FORCE

1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 24

RESERVATIONS

No reservations may be made to the Convention.

Article 25

WITHDRAWAL

1. At any time after three years from the date on which the Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 26

AUTHENTIC TEXTS

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at New York this ninth day of May one thousand nine hundred and ninety-two.

Annex I

Australia
Austria
Belarus^a
Belgium
Bulgaria^a
Canada
Croatia^a *
Czech Republic^a *
Denmark
European Economic Community
Estonia^a
Finland
France
Germany
Greece
Hungary^a
Iceland
Ireland
Italy
Japan
Latvia^a
Liechtenstein*
Lithuania^a
Luxembourg
Monaco*
Netherlands
New Zealand
Norway
Poland^a
Portugal
Romania^a
Russian Federation^a
Slovakia^a *
Slovenia^a *
Spain
Sweden
Switzerland
Turkey
Ukraine^a
United Kingdom of Great Britain and Northern Ireland
United States of America

^a Countries that are undergoing the process of transition to a market economy.

* *Publisher's note:* Countries added to Annex I by an amendment that entered into force on 13 August 1998, pursuant to decision 4/CP.3 adopted at COP.3.

Annex II

Australia
Austria
Belgium
Canada
Denmark
European Economic Community
Finland
France
Germany
Greece
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Sweden
Switzerland
United Kingdom of Great Britain and Northern Ireland
United States of America

Publisher's note: Turkey was deleted from Annex II by an amendment that entered into force 28 June 2002, pursuant to decision 26/CP.7 adopted at COP.7.

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No. 30619

MULTILATERAL

**Convention on biological diversity (with annexes). Concluded
at Rio de Janeiro on 5 June 1992**

*Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio on 29 December 1993.*

MULTILATÉRAL

**Convention sur la diversité biologique (avec annexes). Con-
clue à Rio de Janeiro le 5 juin 1992**

*Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistrée d'office le 29 décembre 1993.*

CONVENTION¹ ON BIOLOGICAL DIVERSITY

Preamble

The Contracting Parties.

Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components.

Conscious also of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere,

Affirming that the conservation of biological diversity is a common concern of humankind,

Reaffirming that States have sovereign rights over their own biological resources,

¹ Came into force on 29 December 1993, i.e., the ninetieth day after the date of deposit with the Secretary-General of the United Nations of the thirtieth instrument of ratification, acceptance, approval or accession, in accordance with article 36 (1):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification, or acceptance (A)</i>
Antigua and Barbuda.....	9 March 1993
Armenia.....	14 May 1993 A
Australia.....	18 June 1993
Bahamas.....	2 September 1993
Belarus.....	8 September 1993
Burkina Faso.....	2 September 1993
Canada.....	4 December 1992
China.....	5 January 1993
Cook Islands.....	20 April 1993
Ecuador.....	23 February 1993
Fiji.....	25 February 1993
Guinea.....	7 May 1993
Japan.....	28 May 1993 A
Maldives.....	9 November 1992
Marshall Islands.....	8 October 1992
Mauritius.....	4 September 1992
Mexico.....	11 March 1993
Monaco.....	20 November 1992
Mongolia.....	30 September 1993
New Zealand.....	16 September 1993
Norway.....	9 July 1993
Papua New Guinea*.....	16 March 1993
Peru.....	7 June 1993
Saint Kitts and Nevis.....	7 January 1993
Saint Lucia.....	28 July 1993 a
Seychelles.....	22 September 1992
Tunisia.....	15 July 1993
Uganda.....	8 September 1993
Vanuatu.....	25 March 1993
Zambia.....	28 May 1993

(Continued on page 144)

Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner.

Concerned that biological diversity is being significantly reduced by certain human activities.

Aware of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures,

Noting that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source.

Noting also that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.

Noting further that the fundamental requirement for the conservation of biological diversity is the *in-situ* conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings.

(Footnote 1 continued from page 143)

Subsequently, the Convention came into force for the following Contracting Parties on the ninetieth day after the date of deposit with the Secretary-General of the United Nations of their instrument of ratification, acceptance, approval or accession, in accordance with article 36 (3):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification or approval (AA)</i>
Philippines	8 October 1993
(With effect from 6 January 1994.)	
Uruguay	5 November 1993
(With effect from 3 February 1994.)	
Nauru	11 November 1993
(With effect from 9 February 1994.)	
Jordan	12 November 1993
(With effect from 10 February 1994.)	
Nepal	23 November 1993
(With effect from 21 February 1994.)	
Czech Republic	3 December 1993 AA
(With effect from 3 March 1994.)	
Barbados	10 December 1993
(With effect from 10 March 1994.)	
Sweden	16 December 1993
(With effect from 16 March 1994.)	
Denmark	21 December 1993
(With effect from 21 March 1994.)	
European Community*	21 December 1993 AA
(With effect from 21 March 1994.)	
Germany	21 December 1993
(With effect from 21 March 1994.)	
Portugal	21 December 1993
(With effect from 21 March 1994.)	
Spain	21 December 1993
(With effect from 21 March 1994.)	

* See p. 306 for the texts of the declarations made upon ratification or approval.

Noting further that *ex-situ* measures, preferably in the country of origin, also have an important role to play,

Recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components,

Recognizing also the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation,

Stressing the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the sustainable use of its components,

Acknowledging that the provision of new and additional financial resources and appropriate access to relevant technologies can be expected to make a substantial difference in the world's ability to address the loss of biological diversity,

Acknowledging further that special provision is required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies,

Noting in this regard the special conditions of the least developed countries and small island States,

Acknowledging that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments,

Recognizing that economic and social development and poverty eradication are the first and overriding priorities of developing countries,

Aware that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential,

Noting that, ultimately, the conservation and sustainable use of biological diversity will strengthen friendly relations among States and contribute to peace for humankind,

Desiring to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components, and

Determined to conserve and sustainably use biological diversity for the benefit of present and future generations,

Have agreed as follows:

Article 1. Objectives

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Article 2. Use of Terms

For the purposes of this Convention:

"*Biological diversity*" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.

"*Biological resources*" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

"*Biotechnology*" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

"*Country of origin of genetic resources*" means the country which possesses those genetic resources in *in-situ* conditions.

"*Country providing genetic resources*" means the country supplying genetic resources collected from *in-situ* sources, including populations of both wild and domesticated species, or taken from *ex-situ* sources, which may or may not have originated in that country.

"*Domesticated or cultivated species*" means species in which the evolutionary process has been influenced by humans to meet their needs.

"*Ecosystem*" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"*Ex-situ conservation*" means the conservation of components of biological diversity outside their natural habitats.

"*Genetic material*" means any material of plant, animal, microbial or other origin containing functional units of heredity.

"*Genetic resources*" means genetic material of actual or potential value.

"*Habitat*" means the place or type of site where an organism or population naturally occurs.

"*In-situ conditions*" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*In-situ conservation*" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*Protected area*" means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.

"*Regional economic integration organization*" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

"*Sustainable use*" means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

"*Technology*" includes biotechnology.

Article 3. Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Article 4. Jurisdictional Scope

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

(a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and

(b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

Article 5. Cooperation

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond

national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

Article 6. General Measures for Conservation and Sustainable Use

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and

(b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Article 7. Identification and Monitoring

Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10:

(a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;

(b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;

(c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and

(d) Maintain and organize, by any mechanism data, derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

Article 8. In-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate:

(a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;

(b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;

(c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;

(e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;

(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;

(g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;

(h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;

(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

(k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;

(l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and

(m) Cooperate in providing financial and other support for *in-situ* conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

Article 9. Ex-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate, and predominantly for the purpose of complementing *in-situ* measures:

(a) Adopt measures for the *ex-situ* conservation of components of biological diversity, preferably in the country of origin of such components;

(b) Establish and maintain facilities for *ex-situ* conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources:

(c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions:

(d) Regulate and manage collection of biological resources from natural habitats for *ex-situ* conservation purposes so as not to threaten ecosystems and *in-situ* populations of species, except where special temporary *ex-situ* measures are required under subparagraph (c) above: and

(e) Cooperate in providing financial and other support for *ex-situ* conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of *ex-situ* conservation facilities in developing countries.

Article 10. Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

(a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;

(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced: and

(e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

Article 11. Incentive Measures

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

Article 12. Research and Training

The Contracting Parties, taking into account the special needs of developing countries, shall:

(a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and

provide support for such education and training for the specific needs of developing countries:

(b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, *inter alia*, in accordance with decisions of the Conference of the Parties taken in consequence of recommendations of the Subsidiary Body on Scientific, Technical and Technological Advice; and

(c) In keeping with the provisions of Articles 16, 18 and 20, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

Article 13. Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

(b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

(d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

(e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

Article 15. Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.

4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

Article 16. Access to and Transfer of Technology

i. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the

objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.

Article 17. Exchange of Information

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information.

Article 18. Technical and Scientific Cooperation

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary, through the appropriate international and national institutions.
2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia*, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.
3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.
4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.
5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

Article 19. Handling of Biotechnology and Distribution of its Benefits

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.
2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.
3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.
4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred

to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

Article 20. Financial Resources

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the purpose of this Article, the Conference of the Parties, shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

3. The developed country Parties may also provide, and developing country Parties avail themselves of, financial resources related to the implementation of this Convention through bilateral, regional and other multilateral channels.

4. The extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.

5. The Parties shall take full account of the specific needs and special situation of least developed countries in their actions with regard to funding and transfer of technology.

6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of biological diversity within developing country Parties, in particular small island States.

7. Consideration shall also be given to the special situation of developing countries, including those that are most environmentally vulnerable, such as those with arid and semi-arid zones, coastal and mountainous areas.

Article 21. Financial Mechanism

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20, paragraph 2. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.

2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.

3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.

4. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

Article 22. Relationship with Other International Conventions

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.

2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

Article 23. Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.

4. The Conference of the Parties shall keep under review the implementation of this Convention, and, for this purpose, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body:

(b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;

(c) Consider and adopt, as required, protocols in accordance with Article 28;

(d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;

(e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

(f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;

(g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;

(h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and

(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 24. Secretariat

1. A secretariat is hereby established. Its functions shall be:

(a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;

(b) To perform the functions assigned to it by any protocol;

(c) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;

(d) To coordinate with other relevant international bodies and, in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(e) To perform such other functions as may be determined by the Conference of the Parties.

2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 25. Subsidiary Body on Scientific, Technical and Technological Advice

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:

(a) Provide scientific and technical assessments of the status of biological diversity;

(b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and

(e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

Article 26. Reports

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

Article 27. Settlement of Disputes

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;

(b) Submission of the dispute to the International Court of Justice.

4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.

5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article 28. Adoption of Protocols

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.

2. Protocols shall be adopted at a meeting of the Conference of the Parties.

3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

Article 29. Amendment of the Convention or Protocols

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

5. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 30. Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:

(a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;

(b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below;

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.

Article 31. Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 32. Relationship between this Convention and Its Protocols

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.

Article 33. Signature

This Convention shall be open for signature at Rio de Janeiro by all States and any regional economic integration organization from 5 June 1992 until 14 June 1992, and at the United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

Article 34. Ratification, Acceptance or Approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.
2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.
3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

Article 35. Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.
2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant

protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

Article 36. Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession.

2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol.

3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which this Convention enters into force for that Contracting Party, whichever shall be the later.

5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 37. Reservations

No reservations may be made to this Convention.

Article 38. Withdrawals

1. At any time after two years from the date on which this Convention has entered into force for a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

Article 39. Financial Interim Arrangements

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties or until the Conference of the Parties decides which institutional structure will be designated in accordance with Article 21.

Article 40. Secretariat Interim Arrangements

The secretariat to be provided by the Executive Director of the United Nations Environment Programme shall be the secretariat referred to in Article 24, paragraph 2, on an interim basis for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties.

Article 41. Depositary

The Secretary-General of the United Nations shall assume the functions of Depositary of this Convention and any protocols.

Article 42. Authentic Texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Rio de Janeiro on this fifth day of June, one thousand nine hundred and ninety-two.

[For the signatures, see p. 254 of this volume.]

Annex I

IDENTIFICATION AND MONITORING

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;
2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
3. Described genomes and genes of social, scientific or economic importance.

Annex II

Part I

ARBITRATION

Article 1

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 3

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

Article 4

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.

Article 5

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 6

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

Article 7

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, information and facilities; and

(b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 8

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may

request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time-limit for a period which should not exceed five more months.

Article 15

The final decision of the arbitral tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

Article 17

Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

Part 2

CONCILIATION

Article 1

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

Article 3

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

Article 4

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

Article 5

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

Article 6

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.

باسم أفغانستان :

代表阿富汗:

In the name of Afghanistan:

Au nom de l'Afghanistan :

От имени Афганистана:

En nombre del Afganistán:

ABDUL JALIL SHAMS

[12 June 1991 — 12 juin 1992]

باسم ألبانيا :

代表阿尔巴尼亚:

In the name of Albania:

Au nom de l'Albanie :

От имени Албании:

En nombre de Albania:

باسم الجزائر :

代表阿尔及利亚:

In the name of Algeria:

Au nom de l'Algérie :

От имени Алжира:

En nombre de Argelia:

LAKHDAR BRAHIMI

[13 June 1992 — 13 juin 1992]

باسم أنغولا :

代表安哥拉:

In the name of Angola:

Au nom de l'Angola :

От имени Анголы:

En nombre de Angola:

PEDRO DE CASTRO VAN-DUNEM

[12 June 1992 — 12 juin 1992]

باسم أنتيغوا وباربودا :

代表安提瓜和巴布达:

In the name of Antigua and Barbuda:

Au nom d'Antigua-et-Barbuda :

От имени Антигуа и Барбуды:

En nombre de Antigua y Barbuda:

RODNEY WILLIAMS

[5 June 1992 — 5 juin 1992]

باسم الأرجنتين :

代表阿根廷:

In the name of Argentina:

Au nom de l'Argentine :

От имени Аргентины:

En nombre de la Argentina:

GUIDO DI TELLA

[12 June 1992 — 12 juin 1992]

باسم أرمينيا :

亚美尼亚代表:

In the name of Armenia:

Au nom de l'Arménie :

От имени Армении:

En nombre de Armenia:

LEVON TER-PETROSIAN

[13 June 1992 — 13 juin 1992]

باسم استراليا :

代表澳大利亚:

In the name of Australia:

Au nom de l'Australie :

От имени Австралии:

En nombre de Australia:

ROSLYN JOAN KELLY

[5 June 1992 — 5 juin 1992]

باسم النمسا :

代表奥地利:

In the name of Austria:

Au nom de l'Autriche :

От имени Австрии:

En nombre de Austria:

FRANZ VRANITZKY

[13 June 1992 — 13 juin 1992]

باسم أذربيجان :

阿塞拜疆代表:

In the name of Azerbaijan:

Au nom de l'Azerbaïdjan :

От имени Азербайджана:

En nombre de Azerbaiyán:

HUSEINOV RAGIM

[12 June 1992 — 12 juin 1992]

باسم البهاما :

代表巴哈马:

In the name of the Bahamas:

Au nom des Bahamas :

От имени Багамских островов:

En nombre de las Bahamas:

E. CHARLES CARTER

[12 June 1992 — 12 juin 1992]

باسم البحرين :

代表巴林:

In the name of Bahrain:

Au nom de Bahreïn :

От имени Бахрейна:

En nombre de Bahrein:

JAWAD SALIM AL-ARRAYED

[9 June 1992 — 9 juin 1992]

باسم بنفلا ديش:

代表孟加拉国:

In the name of Bangladesh:

Au nom du Bangladesh :

От имени Бангладеш:

En nombre de Bangladesh:

ABDULLAH AL-NOMAN

[5 June 1992 — 5 juin 1992]

باسم بربادوس:

代表巴巴多斯:

In the name of Barbados:

Au nom de la Barbade :

От имени Барбадоса:

En nombre de Barbados:

L. ERSKINE SANDIFORD

[12 June 1992-12 juin 1992]

عن بيلاروس :

白俄罗斯代表:

In the name of Belarus:

Au nom du Bélarus :

От имени Беларуси:

En nombre de Belarús:

STANISLAV S. SHUSHKEVICH

[11 June 1992 — 11 juin 1992]

باسم بلجیکا :

代表比利时:

In the name of Belgium:

Au nom de la Belgique :

От имени Бельгии:

En nombre de Belgique:

L. ONKELINX

[5 June 1992 — 5 juin 1992]

باسم بېليز :

代表伯利兹:

In the name of Belize:

Au nom du Belize :

От имени Белиза:

En nombre de Belice:

FLORENCIO MARIN

[13 June 1992 — 13 juin 1992]

باسم بېنين :

代表贝宁:

In the name of Benin:

Au nom du Bénin :

От имени Бенина:

En nombre de Benin:

EUSTACHE SARRE

[13 June 1992 — 13 juin 1992]

باسم بوتان :

代表不丹:

In the name of Bhutan:

Au nom du Bhoutan :

От имени Бутана:

En nombre de Bhután:

SONAM CHHODEN WANGCHUCK

[11 June 1992 — 11 juin 1992]

باسم بوليفيا :

代表玻利维亚:

In the name of Bolivia:

Au nom de la Bolivie :

От имени Боливии:

En nombre de Bolivia:

JAIME PAZ ZAMORA

[13 June 1992 — 13 juin 1992]

باسم بوتسوانا :

代表博茨瓦纳:

In the name of Botswana:

Au nom du Botswana :

От имени Ботсваны:

En nombre de Botswana:

BOOMETSWE MOKGOTHU

[8 June 1992 — 8 juin 1992]

باسم البرازيل :

代表巴西:

In the name of Brazil:

Au nom du Brésil :

От имени Бразилии:

En nombre del Brasil:

FERNANDO COLLOR

[5 May 1992 — 5 mai 1992]

باسم بروني دارالسلام :

代表文莱国:

In the name of Brunei Darussalam:

Au nom de Brunéi Darussalam :

От имени Брунея Даруссалама:

En nombre de Brunei Darussalam:

باسم بلغاريا :

代表保加利亚:

In the name of Bulgaria:

Au nom de la Bulgarie :

От имени Болгарии:

En nombre de Bulgaria:

ZHELYU ZHELEV

[12 June 1992 — 12 juin 1992]

باسم بوركينا فاسو :

代表布爾基納法索 :

In the name of Burkina Faso:

Au nom du Burkina Faso :

От имени Буркина Фасо:

En nombre de Burkina Faso:

LOUIS ARMAND MIHYEMBA OUALI

[12 June 1992 — 12 juin 1992]

باسم بوروندي :

代表布隆迪 :

In the name of Burundi:

Au nom du Burundi :

От имени Бурунди:

En nombre de Burundi:

LOUIS NDUWIMANA

[11 June 1992 — 11 juin 1992]

باسم كمبوديا :

柬埔寨代表 :

In the name of Cambodia:

Au nom du Cambodge :

От имени Камбоджи:

En nombre de Camboya:

باسم الكاميرون :

喀麦隆代表 :

In the name of Cameroon:

Au nom du Cameroun :

От имени Камеруна:

En nombre del Camerún:

LUC AYANG

[14 June 1992 — 14 juin 1992]

باسم كندا :

代表加拿大:

In the name of Canada:

Au nom du Canada :

От имени Канады:

En nombre del Canadá:

BRIAN MULRONEY

[11 June 1992 — 11 juin 1992]

باسم الرأس الأخضر :

代表佛得角:

In the name of Cape Verde:

Au nom du Cap-Vert :

От имени Островов Зеленого Мыса:

En nombre de Cabo Verde:

ANTONIO MANUEL MASCARENHAS GOMES MONTEIRO

[12 June 1992 — 12 juin 1992]

باسم جمهورية افريقيا الوسطى :

代表中非共和国:

In the name of the Central African Republic:

Au nom de la République centrafricaine :

От имени Центральноафриканской Республики:

En nombre de la República Centrafricana:

ANDRÉ KOLINGBA

[13 June 1992 — 13 juin 1992]

باسم تشاد :

代表乍得:

In the name of Chad:

Au nom du Tchad :

От имени Чада:

En nombre del Chad:

BAMBE DANSALA

[12 June 1992 — 12 juin 1992]

باسم شيلي :

代表智利:

In the name of Chile:

Au nom du Chili :

От имени Чили:

En nombre de Chile:

PATRICIO AYLWIN AZOCAR

[13 June 1992 — 13 juin 1992]

باسم الصين :

代表中国:

In the name of China:

Au nom de la Chine :

От имени Китая:

En nombre de China:

LI PENG

[11 June 1992 — 11 juin 1992]

باسم كولومبيا :

代表哥伦比亚:

In the name of Colombia:

Au nom de la Colombie :

От имени Колумбии:

En nombre de Colombia:

CÉSAR GAVIRIA

[12 June 1992 — 12 juin 1992]

باسم كوموروس :

代表科摩罗:

In the name of the Comoros:

Au nom des Comores :

От имени Коморских островов:

En nombre de las Comoras:

SAID HASSANE SAID HACHIM

[11 June 1992 — 11 juin 1992]

باسم الكونغو:

代表刚果:

In the name of the Congo:

Au nom du Congo :

От имени Конго:

En nombre del Congo:

DAMBERT RÉNÉ NDOUANE

[11 June 1992 — 11 juin 1992]

باسم جزر كوك :

代表库克群岛:

In the name of Cook Islands:

Au nom des Iles Cook :

От имени островов Кука:

En nombre de las Islas Cook:

G. A. HENRY

[12 June 1992 — 12 juin 1992]

باسم كوستاريكا :

代表哥斯达黎加:

In the name of Costa Rica:

Au nom du Costa Rica :

От имени Коста-Рики:

En nombre de Costa Rica:

RAFAEL ANGEL CALDERON

[13 June 1992 — 13 juin 1992]

باسم كوت د'يفوار :

科特迪瓦代表:

In the name of Côte d'Ivoire:

Au nom de la Côte d'Ivoire :

От имени Кот д'Ивуар:

En nombre de Côte d'Ivoire:

EZAN AKELE

[10 June 1992 — 10 juin 1992]

باسم كرواتيا :

以克罗地亚的名义：

In the name of Croatia:

Au nom de la Croatie :

От имени Хорватии:

En nombre de Croacia:

FRANJO GREGURIC

[11 June 1992 — 11 juin 1992]

باسم كوبا :

代表古巴：

In the name of Cuba:

Au nom de Cuba :

От имени Кубы:

En nombre de Cuba:

FIDEL CASTRO

[12 June 1992 — 12 juin 1992]

باسم قبرص :

代表塞浦路斯：

In the name of Cyprus:

Au nom de Chypre :

От имени Кипра:

En nombre de Chypre:

GEORGE VASSILIOU

[12 June 1992 — 12 juin 1992]

باسم الجمهورية التشيكية :

捷克共和国代表：

In the name of the Czech Republic:

Au nom de la République tchèque :

От имени Чешской Республики:

En nombre de la República Checa:

VLADIMÍR GALUŠKA

[4 June 1992 — 4 juin 1992]

باسم جمهورية كوريا الشعبية الديمقراطية :

代表朝鲜民主主义人民共和国:

In the name of the Democratic People's Republic of Korea:

Au nom de la République populaire démocratique de Corée :

От имени Корейской Народно-Демократической Республики:

En nombre de la República Popular Democrática de Corea:

KANG HUI WON

[11 June 1992 — 11 juin 1992]

باسم الدانمرك :

代表丹麦:

In the name of Denmark:

Au nom du Danemark :

От имени Дании:

En nombre de Dinamarca:

PER STIG MOLLER

[12 June 1992 — 12 juin 1992]

باسم جيبوتي :

代表吉布提:

In the name of Djibouti:

Au nom de Djibouti :

От имени Джибути:

En nombre de Djibouti:

BARKAT GOURAD HAMADOU

[13 June 1992 — 13 juin 1992]

باسم دومينيكا :

代表多米尼加:

In the name of Dominica:

Au nom de la Dominique :

От имени Доминики:

En nombre de Dominica:

باسم الجمهورية الدومينيكية :

代表多米尼加共和国:

In the name of the Dominican Republic:

Au nom de la République dominicaine :

От имени Доминиканской Республики:

En nombre de la República Dominicana:

CARLOS MORALES TRONCOSO

[13 June 1992 — 13 juin 1992]

باسم اکوادور :

代表厄瓜多尔:

In the name of Ecuador:

Au nom de l'Équateur :

От имени Эквадора:

En nombre del Ecuador:

DIEGO CORDOVEZ

[9 June 1992 — 9 juin 1992]

باسم مصر :

代表埃及:

In the name of Egypt:

Au nom de l'Égypte :

От имени Египта:

En nombre de Egipto:

ATEF EBEID

[9 June 1992 — 9 juin 1992]

باسم السلفادور :

代表萨尔瓦多:

In the name of El Salvador:

Au nom d'El Salvador :

От имени Сальвадора:

En nombre de El Salvador:

ANTONIO CABRALES

[13 June 1992 — 13 juin 1992]

باسم غينيا الاستوائية :**代表赤道几内亚:**

In the name of Equatorial Guinea:

Au nom de la Guinée équatoriale :

От имени Экваториальной Гвинеи:

En nombre de Guinea Ecuatorial:

عن استونيا :

爱沙尼亚代表:

In the name of Estonia:

Au nom de l'Estonie :

От имени Эстонии:

En nombre de Estonia:

ARNOLD RÜÜTEL

[12 June 1992 — 12 juin 1992]

باسم اثيوبيا :**代表埃塞俄比亚:**

In the name of Ethiopia:

Au nom de l'Ethiopie :

От имени Эфиопии:

En nombre de Etiopía:

TAMRAT LAYNE

[10 June 1992 — 10 juin 1992]

باسم فيجي :**代表斐济:**

In the name of Fiji:

Au nom de Fidji :

От имени Фиджи:

En nombre de Fiji:

РАВУКА

[9 October 1992 — 9 octobre 1992]

باسم فنلندا :

代表芬兰:

In the name of Finland:
Au nom de la Finlande :
От имени Финляндии:
En nombre de Finlandia:

SIRPA PIETIKAINEN

[5 June 1992 — 5 juin 1992]

باسم فرنسا :

代表法国:

In the name of France:
Au nom de la France :
От имени Франции:
En nombre de Francia:

FRANÇOIS MITTERRAND¹

[13 June 1992 — 13 juin 1992]

باسم غابون :

代表加蓬:

In the name of Gabon:
Au nom du Gabon :
От имени Габона:
En nombre del Gabón:

OMAR BONGO

[12 June 1992 — 12 juin 1992]

باسم غامبيا :

代表冈比亚:

In the name of the Gambia:
Au nom de la Gambie :
От имени Гамбии:
En nombre de Gambia:

Dawda K. Jawara

[12 June 1992 — 12 juin 1992]

¹ See p. 302 of this volume for the texts of the declarations made upon signature — Voir p. 302 du présent volume pour les textes des déclarations faites lors de la signature.

باسم ألمانيا :

德国代表:

In the name of Germany:

Au nom de l'Allemagne :

От имени Германии:

En nombre de Alemania:

HELMUT KOHL

[12 June 1992 — 12 juin 1992]

باسم غانا :

代表加纳:

In the name of Ghana:

Au nom du Ghana :

От имени Ганы:

En nombre de Ghana:

D. F. ANNAN

[12 June 1992 — 12 juin 1992]

باسم اليونان :

代表希腊:

In the name of Greece:

Au nom de la Grèce :

От имени Греции:

En nombre de Grécia:

ACHILLES KARAMANLIS

[12 June 1992 — 12 juin 1992]

باسم غرينادا :

代表格林纳达:

In the name of Grenada:

Au nom de la Grenade :

От имени Гренады:

En nombre de Granada:

EUGENE M. PURSOO

[3 December 1992 — 3 décembre 1992]

باسم غواتيمالا :

代表危地马拉：
In the name of Guatemala:
Au nom du Guatemala :
От имени Гватемалы:
En nombre de Guatemala:

JORGE SERRANO ELÍAS
[13 June 1992 — 13 juin 1992]

باسم غينيا :

代表几内亚：
In the name of Guinea:
Au nom de la Guinée :
От имени Гвинеи:
En nombre de Guinea:

LANSANA CONTE
[12 June 1992 — 12 juin 1992]

باسم غينيا - بيساو :

代表几内亚比绍：
In the name of Guinea-Bissau:
Au nom de la Guinée-Bissau :
От имени Гвинеи-Бисау:
En nombre de Guinea-Bissau:

JOAO BERNARDO VIEIRA
[12 June 1992 — 12 juin 1992]

باسم غيانا :

代表圭亚那：
In the name of Guyana:
Au nom de la Guyane :
От имени Гвианы:
En nombre de Guyana:

HUGH DESMOND HOYT
[13 June 1992 — 13 juin 1992]

باسم هاييتي :

代表海地:

In the name of Haiti:

Au nom d'Haïti :

От имени Гаити:

En nombre de Haïti:

JEAN-BERTRAND ARISTIDE

[13 June 1992 — 13 juin 1992]

باسم الكرسي الرسولي :

代表教廷:

In the name of the Holy See:

Au nom du Saint-Siège :

От имени Святейшего престола:

En nombre de la Santa Sede:

باسم هندوراس:

代表洪都拉斯:

In the name of Honduras:

Au nom du Honduras :

От имени Гондураса:

En nombre de Honduras:

ROBERTO MARTINEZ LOZANO

[13 June 1992 — 13 juin 1992]

باسم هنغاريا :

代表匈牙利:

In the name of Hungary:

Au nom de la Hongrie :

От имени Венгрии:

En nombre de Hungría:

ÁRPÁD GÖNCZ

[13 June 1992 — 13 juin 1992]

باسم ايسلندا :

代表冰岛:

In the name of Iceland:

Au nom de l'Islande :

От имени Исландии:

En nombre de Islandia:

EIDUR GUDNASON

[10 June 1992 — 10 juin 1992]

باسم الهند :

代表印度:

In the name of India:

Au nom de l'Inde :

От имени Индии:

En nombre de la India:

KAMAL NATH

[5 June 1992 — 5 juin 1992]

باسم اندونيسيا :

代表印度尼西亚:

In the name of Indonesia:

Au nom de l'Indonésie :

От имени Индонезии:

En nombre de Indonesia:

EMIL SALIM

[5 June 1992 — 5 juin 1992]

باسم جمهورية ايران الاسلامية :

代表伊朗伊斯兰共和国:

In the name of the Islamic Republic of Iran:

Au nom de la République islamique d'Iran :

От имени Исламской Республики Иран:

En nombre de la República Islámica del Irán:

HASSAN HABIBI

[14 June 1992 — 14 juin 1992]

باسم العراق :

代表伊拉克:

In the name of Iraq:

Au nom de l'Iraq :

От имени Ирака:

En nombre del Iraq:

باسم ايرلندا :

代表爱尔兰:

In the name of Ireland:

Au nom de l'Irlande :

От имени Ирландии:

En nombre de Irlanda:

ALBERT REYNOLDS

[13 June 1992 — 13 juin 1992]

باسم اسرائيل :

代表以色列:

In the name of Israel:

Au nom d'Israël :

От имени Израиля:

En nombre de Israel:

URI MARINOV

[11 June 1992 — 11 juin 1992]

باسم ايطاليا :

代表意大利:

In the name of Italy:

Au nom de l'Italie :

От имени Италии:

En nombre de Italia:

GIORGIO RUFFOLO¹

[5 June 1992 — 5 juin 1992]

¹ See p. 302 of this volume for the texts of the declarations made upon signature — Voir p. 302 du présent volume pour les textes des déclarations faites lors de la signature.

باسم جامايكا :

代表牙买加：

In the name of Jamaica:

Au nom de la Jamaïque :

От имени Ямайки:

En nombre de Jamaica:

JOHN JUNOR

[11 June 1992 — 11 juin 1992]

باسم اليابان :

代表日本：

In the name of Japan:

Au nom du Japon :

От имени Японии:

En nombre del Japón:

SHOZABURO NAKAMURA

[13 June 1992 — 13 juin 1992]

NOBUTOSHI AKAO

[13 June 1992 — 13 juin 1992]

باسم الأردن :

代表约旦：

In the name of Jordan:

Au nom de la Jordanie :

От имени Иордании:

En nombre de Jordania:

ABDUL-RAZAK TUBAISHAT

[11 June 1992 — 11 juin 1992]

باسم كازاخستان :

哈萨克斯坦代表：

In the name of Kazakhstan:

Au nom du Kazakhstan :

От имени Казахстана:

En nombre de Kazajstán:

S. A. MEDVEDEV

[9 June 1992 — 9 juin 1992]

باسم كينيا :

代表肯尼亚:

In the name of Kenya:

Au nom du Kenya :

От имени Кении:

En nombre de Kenya:

DANIEL TOROITICH ARAP MOI

[11 June 1992 — 11 juin 1992]

باسم كيريباتي :

代表基里巴斯:

In the name of Kiribati:

Au nom de Kiribati :

От имени Кирибати:

En nombre de Kiribati:

باسم الكويت :

代表科威特:

In the name of Kuwait:

Au nom du Koweït :

От имени Кувейта:

En nombre de Kuwait:

ABDULWAHAB S. AL-FOUZAN

[9 June 1992 — 9 juin 1992]

باسم قيرغيزستان :

吉尔吉斯斯坦代表:

In the name of Kyrgyzstan:

Au nom du Kirghizistan :

От имени Кыргызстана:

En nombre de Kirguistán:

باسم جمهورية لاو الديمقراطية الشعبية :

代表老挝人民民主共和国:

In the name of the Lao People's Democratic Republic:

Au nom de la République démocratique populaire lao :

От имени Лаосской Народно-Демократической Республики:

En nombre de la República Democrática Popular Lao:

عن لاتفيا :

拉脱维亚代表:

In the name of Latvia:

Au nom de la Lettonie :

От имени Латвии:

En nombre de Letonia:

ANATOLIJS GORBUNOVA

[11 June 1992 — 11 juin 1992]

باسم لبنان :

代表黎巴嫩:

In the name of Lebanon:

Au nom du Liban :

От имени Ливана:

En nombre del Líbano:

FAREZ BOUEIZ

[12 June 1992 — 12 juin 1992]

باسم ليسوتو :

代表莱索托:

In the name of Lesotho:

Au nom du Lesotho :

От имени Лесото:

En nombre de Lesotho:

ELIAS PHISOANE RAMAEMA

[11 June 1992 — 11 juin 1992]

باسم لىبرىيا :

代表利比里亚:

In the name of Liberia:

Au nom du Libéria :

От имени Либерии:

En nombre de Liberia:

BISMARCK KUYON

[12 June 1992 — 12 juin 1992]

باسم الجماهيرية العربية الليبية :

代表阿拉伯利比亚民众国:

In the name of the Libyan Arab Jamahiriya:

Au nom de la Jamahiriya arabe libyenne :

От имени Ливийской Арабской Джамахирии:

En nombre de la Jamahiriya Arabe Libia:

ALI AHMED ELHOUDERI

[29 June 1992 — 29 juin 1992]

باسم لىختنشاين :

代表列支敦士登:

In the name of Liechtenstein:

Au nom du Liechtenstein :

От имени Лихтенштейна:

En nombre de Liechtenstein:

FELIX NÄSCHER

[5 June 1992 — 5 juin 1992]

عن ليتوانيا :

立陶宛代表:

In the name of Lithuania:

Au nom de la Lituanie :

От имени Литвы:

En nombre de Lituania:

VYTAUTAS LANDSBERGIS

[11 June 1992 — 11 juin 1992]

باسم لڪسمبرغ :

代表卢森堡:

In the name of Luxembourg:

Au nom du Luxembourg :

От имени Люксембурга:

En nombre de Luxemburgo:

JACQUES SANTER

[9 June 1992 — 9 juin 1992]

باسم مدغشقر :

代表马达加斯加:

In the name of Madagascar:

Au nom de Madagascar :

От имени Мадагаскара:

En nombre de Madagascar:

GUY WILLY RAZANAMASY

[8 June 1992 — 8 juin 1992]

باسم ملاوى :

代表马拉维:

In the name of Malawi:

Au nom du Malawi :

От имени Малави:

En nombre de Malawi:

R. W. CHIRWA

[10 June 1992 — 10 juin 1992]

باسم ماليزيا :

代表马来西亚:

In the name of Malaysia:

Au nom de la Malaisie :

От имени Малайзии:

En nombre de Malasia:

MAHATHIR BIN MOHAMAD

[12 June 1992 — 12 juin 1992]

باسم ملديف:

代表马尔代夫:

In the name of Maldives:

Au nom des Maldives :

От имени Мальдивов:

En nombre de Maldivas:

MAUMOON ABDUL GAYOOM

[12 June 1992 — 12 juin 1992]

باسم مالي:

代表马里:

In the name of Mali:

Au nom du Mali :

От имени Мали:

En nombre de Malí:

MOHAMED ALHOUSSEYNI TOURE

[30 September 1992 — 30 septembre 1992]

باسم مالطة:

代表马耳他:

In the name of Malta:

Au nom de Malte :

От имени Мальты:

En nombre de Malta:

EDWARD FENECH-ADAMI

[12 June 1992 — 12 juin 1992]

عن جزر مارشال :

马绍尔群岛代表:

In the name of the Marshall Islands:

Au nom des Iles Marshall :

От имени Маршалловых Островов:

En nombre de las Islas Marshall:

AMATA KABUA

[12 June 1992 — 12 juin 1992]

باسم موريتانيا :

代表毛里塔尼亚:

In the name of Mauritania:

Au nom de la Mauritanie :

От имени Мавритании:

En nombre de Mauritanie:

SIDI MOHAMED OULD BOUBACAR

[12 June 1992 — 12 juin 1992]

باسم موريشوس :

代表毛里求斯:

In the name of Mauritius:

Au nom de Maurice :

От имени Маврикия:

En nombre de Mauricio:

AHMUD SWALAY KASENALLY

[10 June 1992 — 10 juin 1992]

باسم المكسيك :

代表墨西哥:

In the name of Mexico:

Au nom du Mexique :

От имени Мексики:

En nombre de México:

CARLOS SALINAS DE GORTARI

[13 June 1992 — 13 juin 1992]

عن ولايات ميكرونيزيا الموحدة :

密克罗尼西亚联邦代表:

In the name of the Federated States of Micronesia:

Au nom des Etats fédérés de Micronésie :

От имени Федеративных Штатов Микронезии:

En nombre de los Estados Federados de Micronesia:

BAILEY OLTAR

[12 June 1992 — 12 juin 1992]

باسم موناكو:

代表摩纳哥:

In the name of Monaco:

Au nom de Monaco :

От имени Монако:

En nombre de Mónaco:

Le Prince RAINIER III de Monaco

[11 June 1992 — 11 juin 1992]

باسم منغوليا :

代表蒙古:

In the name of Mongolia:

Au nom de la Mongolie :

От имени Монголии:

En nombre de Mongolia:

DASHIIN BYAMBASUREN

[12 June 1992 — 12 juin 1992]

باسم المغرب :

代表摩洛哥:

In the name of Morocco:

Au nom du Maroc :

От имени Марокко:

En nombre de Marruecos:

SIDI MOHAMED

[13 June 1992 — 13 juin 1992]

باسم موزامبيق :

代表莫桑比克:

In the name of Mozambique:

Au nom du Mozambique :

От имени Мозамбика:

En nombre de Mozambique:

JOAQUIM ALBERTO CHISSANO

[12 June 1992 — 12 juin 1992]

باسم ميانمار :

緬甸代表:

In the name of Myanmar:

Au nom du Myanmar :

От имени Мьянмы:

En nombre de Myanmar:

OHN GYAW

[11 June 1992 — 11 juin 1992]

باسم نامیبیا :

代表納米比亞:

In the name of Namibia:

Au nom de la Namibie :

От имени Намибии:

En nombre de Namibia:

SAM NUJOMA

[12 June 1992 — 12 juin 1992]

باسم ناورو:

代表瑙魯:

In the name of Nauru:

Au nom de Nauru :

От имени Науру:

En nombre de Nauru:

BERNARD DOWIYOGO

[5 June 1992 — 5 juin 1992]

باسم نيبال :

代表尼泊爾:

In the name of Nepal:

Au nom du Népal :

От имени Непала:

En nombre de Nepal:

BIR MANI DHAKAL

[12 June 1992 — 12 juin 1992]

باسم هولندا :

代表荷兰:

In the name of the Netherlands:

Au nom des Pays-Bas :

От имени Нидерландов:

En nombre de los Países Bajos:

J. D. GABOR

[5 June 1992 — 5 juin 1992]

باسم نيوزيلندا :

代表新西兰:

In the name of New Zealand:

Au nom de la Nouvelle-Zélande :

От имени Новой Зеландии:

En nombre de Nueva Zelandia:

WILLIAM ROBSON STOREY

[12 June 1992 — 12 juin 1992]

باسم نيكاراغوا :

代表尼加拉瓜:

In the name of Nicaragua:

Au nom du Nicaragua :

От имени Никарагуа:

En nombre de Nicaragua:

VIOLETA BARRIOS DE CHAMORRO

[13 June 1992 — 13 juin 1992]

باسم النيجر :

代表尼日尔:

In the name of the Niger:

Au nom du Niger :

От имени Нигера:

En nombre del Níger:

ABDOU HASSANE

[11 June 1992 — 11 juin 1992]

باسم نيجيريا :

代表尼日利亚:

In the name of Nigeria:

Au nom du Nigéria :

От имени Нигерии:

En nombre de Nigeria:

IKE OMAR SANDA NWACHUKWU

[13 June 1992 — 13 juin 1992]

باسم النرويج :

代表挪威:

In the name of Norway:

Au nom de la Norvège :

От имени Норвегии:

En nombre de Noruega:

GRO HARLEM BRUNDTLAND

[12 June 1992 — 12 juin 1992]

THORBJØRN BERNTSEN

[9 June 1992 — 9 juin 1992]

باسم عمان :

代表阿曼:

In the name of Oman:

Au nom de l'Oman :

От имени Омана:

En nombre de Omán:

AMER BIN SHWAIN AL-HOSNI

[10 June 1992 — 10 juin 1992]

باسم باكستان :

代表巴基斯坦:

In the name of Pakistan:

Au nom du Pakistan :

От имени Пакистана:

En nombre del Pakistán:

ANWAR SAIFULLAH KHAN

[5 June 1992 — 5 juin 1992]

باسم بنملا :

代表巴拿马:

In the name of Panama:

Au nom du Panama :

От имени Панамы:

En nombre de Panamá:

D. G. INRENARE

[13 June 1992 — 13 juin 1992]

باسم بابوا غينيا الجديدة :

代表巴布亚新几内亚:

In the name of Papua New Guinea:

Au nom de la Papouasie-Nouvelle-Guinée :

От имени Папуа-Новой Гвинеи:

En nombre de Papua Nueva Guinea:

RENAGI RENAGI LOHIA

[13 June 1992 — 13 juin 1992]

باسم باراغواي :

代表巴拉圭:

In the name of Paraguay:

Au nom du Paraguay :

От имени Парагвая:

En nombre del Paraguay:

ANDRES RODRIGUEZ

[12 June 1992 — 12 juin 1992]

باسم بيرو :

代表秘鲁:

In the name of Peru:

Au nom du Pérou :

От имени Перу:

En nombre del Perú:

ALBERTO FUJIMORI

[11 June 1992 — 11 juin 1992]

باسم الفلبين :

代表菲律宾:

In the name of the Philippines:

Au nom des Philippines :

От имени Филиппин:

En nombre de Filipinas:

FULGENCIO S. FACTORAN, Jr.

[12 June 1992 — 12 juin 1992]

باسم بولندا :

代表波兰:

In the name of Poland:

Au nom de la Pologne :

От имени Польши:

En nombre de Polonia:

STEFAN KOZŁOWSKI

[5 June 1992 — 5 juin 1992]

باسم البرتغال :

代表葡萄牙:

In the name of Portugal:

Au nom du Portugal :

От имени Португалии:

En nombre de Portugal:

ANIBAL CAVACO SILVA

[13 June 1992 — 13 juin 1992]

باسم قطر :

代表卡塔尔:

In the name of Qatar:

Au nom du Qatar :

От имени Катара:

En nombre de Qatar:

AHMAD BIN SAIF AL THANI

[11 June 1992 — 11 juin 1992]

باسم جمهورية كوريا :

代表大韩民国:

In the name of the Republic of Korea:

Au nom de la République de Corée :

От имени Корейской Республики:

En nombre de la República de Corea:

WON SHIK CHUNG

[13 June 1992 — 13 juin 1992]

باسم جمهورية مولدوفا :

摩尔多瓦共和国代表:

In the name of the Republic of Moldova:

Au nom de la République de Moldova :

От имени Республики Молдова:

En nombre de la República de Moldova:

ION DEDIU

[5 June 1992 — 5 juin 1992]

باسم رومانيا :

代表罗马尼亚:

In the name of Romania:

Au nom de la Roumanie :

От имени Румынии:

En nombre de Rumania:

MARCIAN BLEAHU

[5 June 1992 — 5 juin 1992]

باسم الاتحاد الروسي :

俄罗斯联邦代表:

In the name of the Russian Federation:

Au nom de la Fédération de Russie :

От имени Российской Федерации:

En nombre de la Federación de Rusia:

ALEKSANDR V. ROUTSKOY

[13 June 1992 — 13 juin 1992]

باسم رواندا :

代表卢旺达:

In the name of Rwanda:

Au nom du Rwanda :

От имени Руанды:

En nombre de Rwanda:

GASPARD RUHUMULIZA

[10 June 1992 — 10 juin 1992]

باسم سانت كيتس ونيفيس:

代表圣基茨和尼维斯:

In the name of Saint Kitts and Nevis:

Au nom de Saint-Kitts-et-Nevis :

От имени Сент-Китс и Невис:

En nombre de Saint Kitts y Nevis:

KENNEDY A. SIMMONDS

[12 June 1992 — 12 juin 1992]

باسم سانت لوسيا :

代表圣卢西亚:

In the name of Saint Lucia:

Au nom de Sainte-Lucie :

От имени Сент-Люсии:

En nombre de Santa Lucía:

باسم سانت فنسنت وجزر غرينادين :

代表圣文森特和格林纳丁斯:

In the name of Saint Vincent and the Grenadines:

Au nom de Saint-Vincent-et-Grenadines :

От имени Сент-Винсента и Гренадин:

En nombre de San Vicente y las Granadinas:

باسم ساموا :

代表萨摩亚:

In the name of Samoa:

Au nom du Samoa :

От имени Самоа:

En nombre de Samoa:

TOFILAU ETI ALESANA

[12 June 1992 — 12 juin 1992]

باسم سان مارينو:

代表圣马力诺:

In the name of San Marino:

Au nom de Saint-Marin :

От имени Сан-Марино:

En nombre de San Marino:

PIERO NATALINO MULARONI

[10 June 1992 — 10 juin 1992]

باسم سان تومي وبرينسيبي :

代表圣多美和普林西比:

In the name of Sao Tome and Principe:

Au nom de Sao Tomé-et-Príncipe :

От имени Сан-Томе и Принсипи:

En nombre de Santo Tomé y Príncipe:

M. DA CUNHA LISBOA TROVOADA

[12 June 1992 — 12 juin 1992]

باسم المملكة العربية السعودية :

代表沙特阿拉伯:

In the name of Saudi Arabia:

Au nom de l'Arabie saoudite :

От имени Саудовской Аравии:

En nombre de Arabia Saudita:

باسم السنغال :

代表塞内加尔:

In the name of Senegal:

Au nom du Sénégal :

От имени Сенегала:

En nombre del Senegal:

ABDOU DIOUF

[13 June 1992 — 13 juin 1992]

باسم سيشيل :

代表塞舌尔:

In the name of Seychelles:

Au nom des Seychelles :

От имени Сейшельских островов:

En nombre de Seychelles:

DANIELLE DE ST. JORRE

[10 June 1992 — 10 juin 1992]

باسم سيراليون :

代表塞拉利昂:

In the name of Sierra Leone:

Au nom de la Sierra Leone :

От имени Сьерра-Леоне:

En nombre de Sierra Leona:

باسم سنغافوره :

代表新加坡:

In the name of Singapore:

Au nom de Singapour :

От имени Сингапура:

En nombre de Singapur:

CHEW TAI SOO

[10 March 1993 — 10 mars 1993]

باسم سلوفاكيا :

斯洛伐克代表:

In the name of Slovakia:

Au nom de la Slovaquie :

От имени Словакии:

En nombre de Eslovaquia:

EDUARD KUKAN

[19 May 1993 — 19 mai 1993]

باسم سلوفينيا :

以斯洛文尼亚的名义 :

In the name of Slovenia:

Au nom de la Slovénie :

От имени Словении:

En nombre de Eslovenia:

JANEZ DRNOVSEK

[13 June 1992 — 13 juin 1992]

باسم جزر سليمان :

代表所罗门群岛:

In the name of Solomon Islands:

Au nom des Iles Salomon :

От имени Соломоновых Островов:

En nombre de las Islas Salomón:

SOLOMON S. MAMALONI

[13 June 1992 — 13 juin 1992]

باسم الصومال :

代表索马里:

In the name of Somalia:

Au nom de la Somalie :

От имени Сомали:

En nombre de Somalia:

باسم افريقيا الجنوبية :

代表南非:

In the name of South Africa:

Au nom de l'Afrique du Sud :

От имени Южной Африки:

En nombre de Sudáfrica:

VERNON RUDSTON WHITEFOORD STEWARD

[4 June 1993 — 4 juin 1993]

باسم اسبانيا :

代表西班牙:

In the name of Spain:

Au nom de l'Espagne :

От имени Испании

En nombre de España:

FELIPE GONZALEZ

[13 June 1992 — 13 juin 1992]

باسم سرى لانكا :

代表斯里兰卡:

In the name of Sri Lanka:

Au nom de Sri Lanka :

От имени Шри Ланки:

En nombre de Sri Lanka:

VINCENT PERERA

[10 June 1992 — 10 juin 1992]

باسم السودان :

代表苏丹:

In the name of the Sudan:

Au nom du Soudan :

От имени Судана:

En nombre del Sudán:

ABDALLA AHMED ABDALLA

[9 June 1992 — 9 juin 1992]

باسم سورينام:

代表苏里南:

In the name of Suriname:

Au nom du Suriname :

От имени Суринама:

En nombre de Suriname:

RUNALDO RONALD VENETIAAN

[13 June 1992 — 13 juin 1992]

باسم سوازيلاند:

代表斯威士兰:

In the name of Swaziland:

Au nom du Swaziland :

От имени Свазиленда:

En nombre de Swazilandia:

OBED MJANYANA DLAMINI

[12 June 1992 — 12 juin 1992]

باسم السويد:

代表瑞典:

In the name of Sweden:

Au nom de la Suède :

От имени Швеции:

En nombre de Suecia:

OLOF JOHANSSON

[8 June 1992 — 8 juin 1992]

باسم سويسرا:

代表瑞士:

In the name of Switzerland:

Au nom de la Suisse :

От имени Швейцарии:

En nombre de Suiza:

FLAVIO COTTI¹

[12 June 1992 — 12 juin 1992]

¹ See p. 302 of this volume for the texts of the declarations made upon signature — Voir p. 302 du présent volume pour les textes des déclarations faites lors de la signature.

باسم الجمهورية العربية السورية :

代表阿拉伯叙利亚共和国:

In the name of the Syrian Arab Republic:

Au nom de la République arabe syrienne :

От имени Сирийской Арабской Республики:

En nombre de la República Árabe Siria:

ISSA AWAD¹

[3 May 1993 — 3 mai 1993]

باسم طاجيكستان :

塔吉克斯坦代表:

In the name of Tajikistan:

Au nom du Tadjikistan :

От имени Таджикистана:

En nombre de Taïkistán:

باسم تايلند :

代表泰国:

In the name of Thailand:

Au nom de la Thaïlande :

От имени Таиланда:

En nombre de Taïlandia:

KASEM SNIDVONGS

[12 June 1992 — 12 juin 1992]

باسم توجو :

代表多哥:

In the name of Togo:

Au nom du Togo :

От имени Того:

En nombre del Togo:

ABOUDOU TOURE CHEAKA

[12 June 1992 — 12 juin 1992]

¹ See p. 302 of this volume for the texts of the declarations made upon signature — Voir p. 302 du présent volume pour les textes des déclarations faites lors de la signature.

باسم تونغا :

代表汤加:

In the name of Tonga:

Au nom des Tonga :

От имени Тонга:

En nombre de Tonga:

باسم ترینیداد وتوباگو:

代表特立尼达和多巴哥:

In the name of Trinidad and Tobago:

Au nom de la Trinité-et-Tobago :

От имени Тринидада и Тобаго:

En nombre de Trinidad y Tabago:

LENNY SAITH

[11 June 1992 — 11 juin 1992]

باسم تونس:

代表突尼斯:

In the name of Tunisia:

Au nom de la Tunisie :

От имени Туниса:

En nombre de Túnez:

HABIB BEN YAHIA

[13 June 1992 — 13 juin 1992]

باسم ترکیا :

代表土耳其:

In the name of Turkey:

Au nom de la Turquie :

От имени Турции:

En nombre de Turquía:

B. DOGANCAN AKYÜREK

[11 June 1992 — 11 juin 1992]

باسم ترکمانستان :

土库曼斯坦代表:

In the name of Turkmenistan:

Au nom du Turkménistan :

От имени Туркменистана:

En nombre de Turkmenistán:

باسم توفالو:

代表图瓦卢:

In the name of Tuvalu:

Au nom de Tuvalu :

От имени Тувалу:

En nombre de Tuvalu:

BIKENIBEU PAENIU

[8 June 1992 — 8 juin 1992]

باسم أوجندا :

代表乌干达:

In the name of Uganda:

Au nom de l'Ouganda :

От имени Уганды:

En nombre de Uganda:

YOWERI KAGUTA MUSEVENI

[12 June 1992 — 12 juin 1992]

عن أوكرانيا :

乌克兰代表:

In the name of Ukraine:

Au nom de l'Ukraine :

От имени Украины:

En nombre de Ucraina:

YURI M. SCHERBAK

[11 June 1992 — 11 juin 1992]

باسم الامارات العربية المتحدة :

代表阿拉伯联合酋长国 :

In the name of the United Arab Emirates:

Au nom des Emirats arabes unis :

От имени Объединенных Арабских Эмиратов:

En nombre de los Emiratos Arabes Unidos:

RASHID ABDULLAH AL NOAIMI

[11 June 1992 — 11 juin 1992]

باسم المملكة المتحدة لبريطانيا العظمى وإيرلندا الشمالية :

代表大不列颠及北爱尔兰联合王国 :

In the name of the United Kingdom of Great Britain and Northern Ireland:

Au nom du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :

От имени Соединенного Королевства Великобритании и Северной Ирландии:

En nombre del Reino Unido de Gran Bretaña e Irlanda del Norte:

JOHN MAJOR¹

[12 June 1992 — 12 juin 1992]

باسم جمهورية تنزانيا المتحدة :

代表坦桑尼亚联合共和国 :

In the name of the United Republic of Tanzania:

Au nom de la République-Unie de Tanzanie :

От имени Объединенной Республики Танзания:

En nombre de la República Unida de Tanzania:

HASSAN MWINYI

[12 June 1992 — 12 juin 1992]

باسم الولايات المتحدة الأمريكية :

代表美利坚合众国 :

In the name of the United States of America:

Au nom des Etats-Unis d'Amérique :

От имени Соединенных Штатов Америки:

En nombre de los Estados Unidos de América:

MADELEINE K. ALBRIGHT

[4 June 1993 — 4 juin 1993]

¹ See p. 302 of this volume for the texts of the declarations made upon signature — Voir p. 302 du présent volume pour les textes des déclarations faites lors de la signature.

باسم اوروگواي :

代表乌拉圭:

In the name of Uruguay:

Au nom de l'Uruguay :

От имени Уругвая:

En nombre del Uruguay:

JULIO C. BALIÑO

[9 June 1992 — 9 juin 1992]

باسم اوزبكيستان :

乌兹别克斯坦代表:

In the name of Uzbekistan:

Au nom de l'Ouzbékistan :

От имени Узбекистана:

En nombre de Uzbekistán:

باسم فانواتو :

代表瓦努阿图:

In the name of Vanuatu:

Au nom de Vanuatu :

От имени Вануату:

En nombre de Vanuatu:

MAXIME CARLOT

[9 June 1992 — 9 juin 1992]

باسم فنزويلا :

代表委内瑞拉:

In the name of Venezuela:

Au nom du Venezuela :

От имени Венесуэлы:

En nombre de Venezuela:

ENRIQUE COLMENARES FINOL

[12 June 1992 — 12 juin 1992]

باسم فيت نام :

代表越南社会主义共和国:

In the name of Viet Nam:

Au nom du Viet Nam :

От имени Вьетнама:

En nombre de Viet Nam:

LE VAN BANG

[28 May 1993 — 28 mai 1993]

باسم اليمن :

代表也门:

In the name of Yemen:

Au nom du Yémen :

От имени Йемена:

En nombre del Yemen:

ABDUL AZIZ ABDUL GHANI

[12 June 1992 — 12 juin 1992]

باسم يوغوسلافيا :

代表南斯拉夫:

In the name of Yugoslavia:

Au nom de la Yougoslavie :

От имени Югославии:

En nombre de Yugoslavia:

MIHAJLO BURIC

[8 June 1992 — 8 juin 1992]

باسم زائير :

代表扎伊尔:

In the name of Zaïre:

Au nom du Zaïre :

От имени Заира:

En nombre del Zaïre:

BAGBENI ADEITO ZENGEYA

[11 June 1992 — 11 juin 1992]

باسم زامبيا :

代表赞比亚:

In the name of Zambia:

Au nom de la Zambie :

От имени Замбии:

En nombre de Zambia:

SIPAKELI KELI WALUBITA

[11 June 1992 — 11 juin 1992]

باسم زيمبابوي :

代表津巴布韦:

In the name of Zimbabwe:

Au nom du Zimbabwe :

От имени Зимбабве:

En nombre de Zimbabwe:

ROBERT GABRIEL MUGABE

[12 June 1992 — 12 juin 1992]

باسم المجتمع الاقتصادي الأوروبي :

代表欧洲经济共同体:

In the name of the European Economic Community:

Au nom de la Communauté économique européenne :

От имени Европейского экономического сообщества:

En nombre de la Comunidad Económica Europea:

ANÍBAL CAVACO SILVA

JACQUES DELORS

[13 June 1992 — 13 juin 1992]

رئيس المؤتمر :

会议主席:

The President of the Conference:

Le Président de la Conférence :

Председатель Конференции:

El Presidente de la Conferencia:

الأمين العام:

秘书长:
The Secretary-General:
Le Secrétaire général :
Генеральный секретарь:
El Secretario General:

MOSTAFA K. TOLBA
[14 June 1992 — 14 juin 1992]

الأمين التنفيذي للمؤتمر:

会议执行秘书:
The Executive Secretary of the Conference:
Le Secrétaire exécutif de la Conférence :
Исполнительный секретарь Конференции:
El Secretario Ejecutivo de la Conferencia:

IWONA RUMMEL-BULSKA
[14 June 1992 — 14 juin 1992]

DECLARATIONS MADE
UPON SIGNATURE*FRANCE*

[TRANSLATION — TRADUCTION]

The French Republic declares, at the time of signing the Convention on Biological Diversity:

- With reference to article 3, that it interprets that article as a guiding principle to be taken into account in the implementation of the Convention;
- With reference to article 21, paragraph 1, that the decision taken periodically by the Conference of the Parties concerns the “amount of resources needed” and that no provision of the Convention authorizes the Conference of the Parties to take decisions concerning the amount, nature or frequency of the contributions from Parties to the Convention.

ITALY

“The Italian Government, when signing the Convention on Biological Diversity, declares its understanding that the decision to be taken by the Conference of the Parties under article 21.1 of the Convention refers to the “amount of resources needed” by the financial mechanism, not to the extent or nature and form of the contributions of the Contracting Parties”.

DÉCLARATIONS FAITES
LORS DE LA SIGNATURE*FRANCE*

Au moment de signer la Convention sur la diversité biologique, la République française déclare :

- « En référence à l'article 3, qu'elle interprète cet article comme un principe directeur à prendre en compte dans la mise en œuvre de la Convention;
- En référence à l'article 21 paragraphe 1, que la décision prise périodiquement par la Conférence des Parties porte sur le « montant des ressources nécessaires » et qu'aucune disposition de la Convention n'autorise la Conférence des Parties à prendre des décisions relatives au montant, à la nature ou à la fréquence des contributions des Parties à la Convention. »

ITALIE

[TRADUCTION — TRANSLATION]

Le Gouvernement italien, en signant la Convention sur la diversité biologique, déclare que, selon son interprétation, la décision qui sera prise par la Conférence des Parties en vertu de l'article 21.1 de la Convention porte sur le « montant des ressources nécessaires » pour assurer le fonctionnement du mécanisme de financement, et non sur l'importance, la nature ou la forme des contributions à verser par les Parties Contractantes.

SWITZERLAND

SUISSE

[TRANSLATION — TRADUCTION]

The Swiss Government wishes to emphasize particularly the progress made in establishing standard terms for cooperation between States in a very important field: research activities and activities for the transfer of technology relevant to resources from third countries.

The important provisions in question create a platform for even closer cooperation with public research bodies or institutions in Switzerland and for the transfer of technologies available to governmental or public bodies, particularly universities and various publicly-funded research and development centres.

It is our understanding that genetic resources acquired under the procedure specified in article 15 and developed by private research institutions will be the subject of programmes of cooperation, joint research and the transfer of technology which will respect the principles and rules for the protection of intellectual property.

These principles and rules are essential for research and private investment, in particular in the latest technologies, such as modern biotechnology which requires substantial financial outlays. On the basis of this interpretation, the Swiss Government wishes to indicate that it is ready, at the opportune time, to take the appropriate general policy measures, particularly under articles 16 and 19, with a view to promoting and encouraging cooperation, on a contractual basis, between swiss firms and the private firms and governmental bodies of other Contracting Parties.

« Le Gouvernement suisse tient à souligner tout particulièrement les progrès accomplis dans l'établissement des conditions-cadres de la coopération entre les Etats dans un domaine important : celui des activités de recherche et du transfert de technologies portant sur les ressources en provenance de pays tiers.

Ces dispositions importantes créent la plate-forme pour une coopération encore plus étroite avec les organismes ou institutions publics de recherche en Suisse, ainsi que pour le transfert de technologies dont disposent les organismes gouvernementaux ou publics, en particulier les universités et divers centres de recherche et de développement financés par des fonds publics.

Nous avons compris que les ressources génétiques, acquises selon la procédure prévue à l'article 15 et développées par des institutions privées de recherches feront l'objet de programmes de coopération, de recherches conjointes et de transferts de technologies et ce, dans le respect des principes et des règles sur la protection de la propriété intellectuelle.

Ces principes et règles sont essentiels pour la recherche et les investissements privés, en particulier dans les technologies de pointe, comme la biotechnologie moderne qui demande de grands efforts financiers. C'est sur la base de cette interprétation que le Gouvernement suisse voudrait indiquer qu'il est prêt à prendre, le moment venu, les mesures de politique générale appropriées, notamment en vertu des articles 16 et 19, dans le but de promouvoir et d'encourager la coopération, sur une base contractuelle, entre les entreprises suisses et les entreprises privées et les organismes gouvernementaux des autres Parties contractantes.

With regard to financial cooperation, Switzerland interprets the provisions of articles 20 and 21 as follows: the resources to be committed and the management system will have regard, in an equitable manner, to the needs and interests of the developing countries and to the possibilities and interests of the developed countries.

En ce qui concerne la coopération financière, la Suisse interprète les dispositions des articles 20 et 21 de la façon suivante : les ressources à mettre en œuvre et le système de gestion tiendront compte de manière équilibrée des besoins et intérêts des pays en développement ainsi que des possibilités et intérêts des pays développés. »

SYRIAN ARAB REPUBLIC

RÉPUBLIQUE ARABE SYRIENNE

[ARABIC TEXT — TEXTE ARABE]

بأن توفيق الجمهوريّة
العربية السوريّة على هذه الاتفاقية لا يعني الاعتراف بإسرائيل بأي شكل من الأشكال
ولا يؤدي إلى الدخول معها في معاملات بما تتضمنه أحكامها.

[TRANSLATION¹ — TRADUCTION]²

[TRADUCTION — TRANSLATION]

It is being understood that the signing of this Convention shall not constitute recognition of Israel or leading to any intercourse with it.

Il est entendu que cette signature ne constitue pas une reconnaissance d'Israël et ne saurait être interprétée comme devant conduire à l'établissement de relations quelconques avec Israël.

*UNITED KINGDOM
OF GREAT BRITAIN
AND NORTHERN IRELAND*

*ROYAUME-UNI
DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD*

[TRADUCTION — TRANSLATION]

“The Government of the United Kingdom of Great Britain and Northern Ireland declare their understanding that Article 3 of the Convention sets out a guiding principle to be taken into account in the implementation of the Convention.

Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord déclare qu'à son sens l'article 3 de la Convention énonce un principe directeur dont il doit être tenu compte pour l'application de la Convention.

The Government of the United Kingdom of Great Britain and Northern Ire-

Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

¹ Translation supplied by the Government of the Syrian Arab Republic.

² Traduction fournie par le Gouvernement de la République arabe syrienne.

land also declare their understanding that the decisions to be taken by the Conference of the Parties under paragraph 1 of Article 21 concern “the amount of resources needed” by the financial mechanism, and that nothing in Article 20 or Article 21 authorizes the Conference of the Parties to take decisions concerning the amount, nature, frequency or size of the contributions of the Parties under the Convention.”

déclare également qu’à son sens les décisions que doit prendre la Conférence des Parties en vertu du paragraphe 1 de l’article 21 ont trait au « montant des ressources nécessaires » au mécanisme de financement et qu’aucune disposition de l’article 20 ou de l’article 21 n’autorise la Conférence des Parties à prendre des décisions au sujet du montant, de la nature, de la fréquence ou de l’importance des contributions des Parties au titre de la Convention.

DECLARATIONS MADE UPON
RATIFICATION OR APPROVAL (AA)*EUROPEAN COMMUNITY (AA)*

“Within their respective competence, the European Community and its Member States wish to reaffirm the importance they attach to transfers of technology and to biotechnology in order to ensure the conservation and sustainable use of biological diversity. The compliance with intellectual property rights constitutes an essential element for the implementation of policies for technology transfer and co-investment.

For the European Community and its Member States, transfers of technology and access to biotechnology, as defined in the text of the Convention on Biological Diversity, will be carried out in accordance with Article 16 of the said Convention and in compliance with the principles and rules of protection of intellectual property, in particular multilateral and bilateral agreements signed or negotiated by the Contracting Parties to this Convention.

The European Community and its Member States will encourage the use of the financial mechanism established by the Convention to promote the voluntary transfer of intellectual property rights held by European operators, in particular as regards the granting of licences, through normal commercial mechanisms and decisions, while ensuring adequate and effective protection of property rights.”

DÉCLARATIONS FAITES LORS DE
LA RATIFICATION OU L'APPRO-
BATION (AA)*COMMUNAUTÉ
EUROPÉENNE (AA)*

« Dans le cadre de leurs compétences respectives, la Communauté européenne et ses Etats membres souhaitent réaffirmer l'importance qu'ils attachent au transfert de technologie et à la biotechnologie en vue de garantir la protection et l'utilisation durable de la diversité biologique. Le respect des droits de propriété intellectuelle constitue un élément essentiel à la mise en œuvre des politiques de transfert de technologie et de co-investissement.

Pour la Communauté européenne et ses Etats membres, le transfert de technologie et l'accès à la biotechnologie, tels que définis dans le texte de la Convention sur la diversité biologique, s'effectueront en conformité avec l'article 16 de ladite Convention et dans le respect des principes et des règles de protection de la propriété intellectuelle, et notamment des accords multilatéraux et bilatéraux signés ou négociés par les Parties contractantes de la présente Convention.

La Communauté européenne et ses Etats membres encourageront le recours au mécanisme financier établi par la Convention pour promouvoir le transfert volontaire des droits de propriété intellectuelle détenus par les opérateurs européens, notamment en ce qui concerne l'octroi de licences, par des décisions et des mécanismes commerciaux classiques, tout en assurant une protection appropriée et efficace des droits de propriété. »

*PAPUA NEW GUINEA**PAPOUASIE-NOUVELLE-GUINÉE*

[TRANSDUCTION — TRANSLATION]

“The Government of the Independent State of Papua New Guinea declares its understanding that ratification of the Convention shall in no way constitute a renunciation of any rights under International Law concerning State responsibility for the adverse effects of Biological Diversity as derogating from the principles of general International Law”.

Le Gouvernement de l’Etat indépendant de la Papouasie-Nouvelle-Guinée déclare que, selon son interprétation, la ratification de la Convention ne vaut nullement renonciation à l’un quelconque des droits découlant du droit international de la responsabilité des Etats à raison des effets néfastes de la diversité biologique par dérogation aux principes du droit international général.

No. 30619. CONVENTION ON BIOLOGICAL DIVERSITY. CONCLUDED AT RIO DE JANEIRO ON 5 JUNE 1992¹

N° 30619. CONVENTION SUR LA DIVERSITÉ BIOLOGIQUE. CONCLUE À RIO DE JANEIRO LE 5 JUIN 1992¹

RATIFICATION

Instrument deposited on:

30 December 1993

BELIZE

(With effect from 30 March 1994.)

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RATIFICATION

Instrument déposé le :

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Enregistré d'office le 30 décembre 1993.

¹ See p. 79 of this volume.

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¹ Voir p. 79 du présent volume.

WASHINGTON DECLARATION ON PROTECTION OF THE MARINE ENVIRONMENT FROM LAND-BASED ACTIVITIES

The representatives of Governments and the European Commission participating in the Conference held in Washington from 23 October to 3 November 1995,

Affirming the need and will to protect and preserve the marine environment for present and future generations,

Reaffirming the relevant provisions of chapters 17, 33 and 34 of Agenda 21 and the Rio Declaration on Environment and Development,

Recognizing the interdependence of human populations and the coastal and marine environment, and the growing and serious threat from land-based activities, to both human health and well-being and the integrity of coastal and marine ecosystems and biodiversity,

Further recognizing the importance of integrated coastal area management and the catchment-area-based approach as means of coordinating programmes aimed at preventing marine degradation from land-based activities with economic and social development programmes,

Also recognizing that the alleviation of poverty is an essential factor in addressing the impacts of land-based activities on coastal and marine areas,

Noting that there are major differences among the different regions of the world, and the States which they comprise, in terms of environmental, economic and social conditions and level of development which will lead to different judgments on priorities in addressing problems related to the degradation of the marine environment by land-based activities,

Acknowledging the need to involve major groups in national, regional and international activities to address degradation of the marine environment by land-based activities,

Strongly supporting the processes set forth in decisions 18/31 and 18/32 of 25 May 1995 of the Governing Council of the United Nations Environment Programme for addressing at the global level the priority issues of persistent organic pollutants and adequate treatment of waste water,

Having therefore adopted the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,

Hereby declare their commitment to protect and preserve the marine environment from the impacts of land-based activities, and

Declare their intention to do so by:

1. Setting as their common goal sustained and effective action to deal with all land-based impacts upon the marine environment, specifically those resulting from sewage, persistent organic pollutants, radioactive substances, heavy metals, oils (hydrocarbons), nutrients, sediment mobilization, litter, and physical alteration and destruction of habitat;
2. Developing or reviewing national action programmes within a few years on the basis of national priorities and strategies;

3. Taking forward action to implement these programmes in accordance with national capacities and priorities;
4. Cooperating to build capacities and mobilize resources for the development and implementation of such programmes, in particular for developing countries, especially the least developed countries, countries with economies in transition and small island developing States (hereinafter referred to as "countries in need of assistance");
5. Taking immediate preventive and remedial action, wherever possible, using existing knowledge, resources, plans and processes;
6. Promoting access to cleaner technologies, knowledge and expertise to address land-based activities that degrade the marine environment, in particular for countries in need of assistance;
7. Cooperating on a regional basis to coordinate efforts for maximum efficiency and to facilitate action at the national level, including, where appropriate, becoming parties to and strengthening regional cooperative agreements and creating new agreements where necessary;
8. Encouraging cooperative and collaborative action and partnerships, among governmental institutions and organizations, communities, the private sector and non-governmental organizations which have relevant responsibilities and/or experience;
9. Encouraging and/or making available external financing, given that funding from domestic sources and mechanisms for the implementation of the Global Programme of Action by countries in need of assistance may be insufficient;
10. Promoting the full range of available management tools and financing options in implementing national or regional programmes of action, including innovative managerial and financial techniques, while recognizing the differences between countries in need of assistance and developed States;
11. Urging national and international institutions and the private sector, bilateral donors and multilateral funding agencies to accord priority to projects within national and regional programmes to implement the Global Programme of Action and encouraging the Global Environment Facility to support these projects;
12. Calling upon the United Nations Environment Programme, the United Nations Development Programme, the World Bank, the regional development banks, as well as the agencies within the United Nations system to ensure that their programmes support (through, inter alia, financial cooperation, capacity-building and institutional-strengthening mechanisms) the regional structures in place for the protection of the marine environment;
13. According priority to implementation of the Global Programme of Action within the United Nations system, as well as in other global and regional institutions and organizations with responsibilities and capabilities for addressing marine degradation from land-based activities, and specifically:
 - (a) Securing formal endorsement of those parts of the Global Programme of Action that are relevant to such institutions and organizations and incorporating the relevant provisions into their work programmes;
 - (b) Establishing a clearing-house mechanism to provide decision makers in all States with direct access to relevant sources of information, practical experience and scientific and technical

expertise and to facilitate effective scientific, technical and financial cooperation as well as capacity-building; and

(c) Providing for periodic intergovernmental review of the Global Programme of Action, taking into account regular assessments of the state of the marine environment;

14. Promoting action to deal with the consequences of sea-based activities, such as shipping, offshore activities and ocean dumping, which require national and/or regional actions on land, including establishing adequate reception and recycling facilities;

15. Giving priority to the treatment and management of waste water and industrial effluents, as part of the overall management of water resources, especially through the installation of environmentally and economically appropriate sewage systems, including studying mechanisms to channel additional resources for this purpose expeditiously to countries in need of assistance;

16. Requesting the Executive Director of the United Nations Environment Programme, in close partnership with the World Health Organization, the United Nations Centre for Human Settlements

(Habitat), the United Nations Development Programme and other relevant organizations, to prepare proposals for a plan to address the global nature of the problem of inadequate management and treatment of waste water and its consequences for human health and the environment, and to promote the transfer of appropriate and affordable technology drawn from the best available techniques;

17. Acting to develop, in accordance with the provisions of the Global Programme of Action, a global, legally binding instrument for the reduction and/or elimination of emissions, discharges and, where appropriate, the elimination of the manufacture and use of the persistent organic pollutants identified in decision 18/32 of the Governing Council of the United Nations Environment Programme. The nature of the obligations undertaken must be developed recognizing the special circumstances of countries in need of assistance. Particular attention should be devoted to the potential need for the continued use of certain persistent organic pollutants to safeguard human health, sustain food production and to alleviate poverty in the absence of alternatives and the difficulty of acquiring substitutes and transferring of technology for the development and/or production of those substitutes; and

18. Elaborating the steps relating to institutional follow-up, including the clearing-house mechanism, in a resolution of the United Nations General Assembly at its fifty-first session, and in that regard, States should coordinate with the United Nations Environment Programme, as secretariat of the Global Programme of Action, and other relevant agencies within the United Nations system in the development of the resolution and include it on the agenda of the Commission on Sustainable Development at its inter- sessional meeting in February 1996 and its session in April 1996.

Washington, D.C., 1 November 1995



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INTERGOVERNMENTAL CONFERENCE
TO ADOPT A GLOBAL PROGRAMME OF
ACTION FOR THE PROTECTION OF THE
MARINE ENVIRONMENT FROM LAND-
BASED ACTIVITIES

Washington, D.C., 23 October - 3 November 1995

**GLOBAL PROGRAMME OF ACTION FOR
THE PROTECTION OF THE MARINE
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GLOBAL PROGRAMME OF ACTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT FROM LAND-BASED ACTIVITIES

Note by the secretariat

The secretariat has the honour to circulate herewith the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, as adopted on 3 November 1995 by the Intergovernmental Conference which met for that purpose in Washington, D.C., from 23 October to 3 November 1995.

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I. INTRODUCTION

A. The need for action

1. The major threats to the health and productivity and biodiversity of the marine environment result from human activities on land -in coastal areas and further inland. Most of the pollution load of the oceans, including municipal, industrial and agricultural wastes and run-off, as well as atmospheric deposition, emanates from such land-based activities and affects the most productive areas of the marine environment, including estuaries and near-shore coastal waters. These areas are likewise threatened by physical alteration of the coastal environment, including destruction of habitats of vital importance for ecosystem health. Moreover, contaminants which pose risks to human health and living resources are transported long distances by watercourses, ocean currents and atmospheric processes.

2. The bulk of the world's population lives in coastal areas, and there is a continuing trend towards its concentration in these regions. The health, well-being and, in some cases, the very survival of coastal populations depend upon the health and well-being of coastal systems -estuaries and wetlands -as well as their associated watersheds and drainage basins and near-shore coastal waters. Ultimately, sustainable patterns of human activity in coastal areas depend upon a healthy marine environment, and vice versa.

B. Aims of the Global Programme of Action

3. The Global Programme of Action aims at preventing the degradation of the marine environment from land-based activities by facilitating the realization of the duty of States to preserve and protect the marine environment. It is designed to assist States in taking actions individually or jointly within their respective policies, priorities and resources, which will lead to the prevention, reduction, control and/or elimination of the degradation of the marine environment, as well as to its recovery from the impacts of land-based activities. Achievement of the aims of the Programme of Action will contribute to maintaining and, where appropriate, restoring the productive capacity and biodiversity of the marine environment, ensuring the protection of human health, as well as promoting the conservation and sustainable use of marine living resources.

C. Legal and institutional framework

4. International law, as reflected in the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and elsewhere, sets forth rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources.

5. In accordance with general international law, while States have the sovereign right to exploit their natural resources pursuant to their environmental policies, the enjoyment of such right shall be in accordance with the duty to protect and preserve the marine environment. This fundamental duty is to protect and preserve the marine environment from all sources of pollution, including land-based activities. Of particular significance for the Global Programme of Action are the provisions contained in articles 207 and 213 of UNCLOS.

/...

6. Also of particular importance for the Programme of Action is the emphasis, in parts XII, XIII and XIV of the Convention, dealing, respectively, with protection and preservation of the marine environment, marine scientific research and the development and transfer of marine technology, on the obligation of States to cooperate in the development of the marine scientific and technological capacity of developing States and to provide them with scientific and technical assistance.

7. The duty of States to preserve and protect the marine environment has been reflected and elaborated upon in numerous global conventions and regional instruments (e.g. the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; Convention on Biological Diversity; United Nations Framework Convention on Climate Change; Regional Seas Conventions; International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), etc.). Innovative new principles and approaches applicable to the prevention of the degradation of the marine environment from land-based activities have been included in a number of such agreements.

8. In 1982, the United Nations Environment Programme (UNEP) took the initiative to develop advice to Governments on addressing impacts on the marine environment from land-based activities. This initiative resulted in the preparation of the Montreal Guidelines for the Protection of the Marine Environment Against Pollution from Land-based Sources in 1985.

9. The duty to protect the marine environment from land-based activities was placed squarely in the context of sustainable development by the United Nations Conference on Environment and Development in 1992. Therein, States agreed it is necessary:

(a) To apply preventive, precautionary, and anticipatory approaches so as to avoid degradation of the marine environment, as well as to reduce the risk of long-term or irreversible adverse effects upon it;

(b) To ensure prior assessment of activities that may have significant adverse impacts upon the marine environment;

(c) To integrate protection of the marine environment into relevant general environmental, social and economic development policies;

(d) To develop economic incentives, where appropriate, to apply clean technologies and other means consistent with the internalization of environmental costs, such as the "polluter pays" principle, so as to avoid degradation of the marine environment;

(e) To improve the living standards of coastal populations, particularly in developing countries, so as to contribute to reducing the degradation of the coastal and marine environment.

10. As set out in paragraph 17.23 of Agenda 21, States agree that provision of additional financial resources, through appropriate international mechanisms, as well as access to cleaner technologies and relevant research, would be necessary to support action by developing countries to implement this commitment.

11. Agenda 21 linked the implementation of those duties with action to implement commitments to integrated management and sustainable development of the marine environment, including coastal areas under national jurisdiction. In this regard, States agreed to implement the provisions of the programme of action adopted at the World Coast Conference in Noordwijk in 1993 and to further develop those provisions in order to make them more operational.

12. Agenda 21 also linked action to combat marine degradation caused by land-based activities to action to address the specific problems of small island developing States. In this regard, States agreed to implement the provisions of the priority areas of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados in 1994.

13. In order to promote, facilitate and finance implementation of Agenda 21 by developing countries, an objective of Agenda 21 is to provide additional financial resources that are both adequate and predictable. Another objective in this context is to promote, facilitate and finance, as appropriate, the access to and the transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries, on favourable terms, including concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries for the implementation of Agenda 21.

D. The Global Programme of Action

14. The Programme of Action, therefore, is designed to be a source of conceptual and practical guidance to be drawn upon by national and/or regional authorities in devising and implementing sustained action to prevent, reduce, control and/or eliminate marine degradation from land-based activities. Effective implementation of this Programme of Action is a crucial and essential step forward in the protection of the marine environment and will promote the objectives and goals of sustainable development.

15. The Global Programme of Action reflects the fact that States face a growing number of commitments flowing from Agenda 21 and related conventions. Its implementation will require new approaches by, and new forms of collaboration among, Governments, organizations and institutions with responsibilities and expertise relevant to marine and coastal areas, at all levels-national, regional and global. These include the promotion of innovative financial mechanisms to generate needed resources.

/...

II. ACTIONS AT THE NATIONAL LEVEL

Basis for action

16. Sustainable use of the oceans depends on the maintenance of ecosystem health, public health, food security, and economic and social benefits including cultural values. Many countries depend on sources of income from activities that would be directly threatened by degradation of the marine environment: industries such as fishing and tourism are obvious examples. The subsistence economy of large coastal populations, in particular in the developing countries, is based on marine living resources that would also be threatened by such degradation. Also to be considered are the impacts of such degradation on maritime culture and traditional lifestyles.

17. Food security is threatened, in particular in developing countries, by the loss of marine living resources that are vital for the adequate provision of food and for combating poverty. Public health considerations from a degraded marine environment manifest themselves through the contamination of seafood, direct contact, such as through bathing, and the use of sea water in desalination and food-processing plants.

Objectives

18. To develop comprehensive, continuing and adaptive programmes of action within the framework of integrated coastal area management which should include provisions for:
- (a) Identification and assessment of problems;
 - (b) Establishment of priorities;
 - (c) Setting management objectives for priority problems;
 - (d) Identification, evaluation and selection of strategies and measures, including management approaches;
 - (e) Criteria for evaluating the effectiveness of strategies and programmes;
 - (f) Programme support elements.

Actions

19. States should, in accordance with their policies, priorities and resources, develop or review national programmes of action within a few years and take forward action to implement these programmes with the assistance of the international cooperation identified in chapter IV, in particular to developing countries, especially the least developed countries, countries with economies in transition and small island developing States (hereinafter referred to as "countries in need of assistance"). The effective development and implementation of national programmes of action should focus on sustainable, pragmatic and integrated environmental management approaches and processes, such as integrated coastal area management, harmonized, as appropriate, with river basin management and land-use plans.

20. Recommended actions to give effect to the objectives in the development of national programmes of action by States are summarized in sections A, B, C, D, E and F below. They are illustrated in more detail in the actions and targets identified in chapter V below.

A. Identification and assessment of problems

21. The identification and assessment of problems is a process of combining five elements:

- (a) Identification of the nature and severity of problems in relation to:
 - (i) Food security and poverty alleviation;
 - (ii) Public health;
 - (iii) Coastal and marine resources and ecosystem health, including biological diversity;
 - (iv) Economic and social benefits and uses, including cultural values;
- (b) Contaminants: **(not listed in order of priority)**
 - (i) Sewage;
 - (ii) Persistent organic pollutants;
 - (iii) Radioactive substances;
 - (iv) Heavy metals;
 - (v) Oils (hydrocarbons);
 - (vi) Nutrients;
 - (vii) Sediment mobilization;
 - (viii) Litter;
- (c) Physical alteration, including habitat modification and destruction in areas of concern;
- (d) Sources of degradation:

/...

- (i) Point sources (coastal and upstream), such as: **(not listed in order of priority)**
 - a. Waste-water treatment facilities;
 - b. Industrial facilities;
 - c. Power plants;
 - d. Military installations;
 - e. Recreational/tourism facilities;
 - f. Construction works (e.g., dams, coastal structures, harbour works and urban expansion);
 - g. Coastal mining (e.g., sand and gravel);
 - h. Research centres;
 - i. Aquaculture;
 - j. Habitat modification (e.g., dredging, filling of wetlands or clearing of mangrove areas);
 - k. Introduction of invasive species;

- (ii) Non-point (diffuse) sources (coastal and upstream), such as: **(not listed in order of priority)**
 - a. Urban run-off;
 - b. Agricultural and horticultural run-off;
 - c. Forestry run-off;
 - d. Mining waste run-off;
 - e. Construction run-off;
 - f. Landfills and hazardous waste sites;
 - g. Erosion as a result of physical modification of coastal features;

- (iii) Atmospheric deposition caused by:
 - a. Transportation (e.g., vehicle emissions);
 - b. Power plants and industrial facilities;

- c. Incinerators;
- d. Agricultural operations;

(e) Areas of concern (what areas are affected or vulnerable): **(not listed in order of priority)**

- (i) Critical habitats, including coral reefs, wetlands, seagrass beds, coastal lagoons and mangrove forests;
- (ii) Habitats of endangered species;
- (iii) Ecosystem components, including spawning areas, nursery areas, feeding grounds and adult areas;
- (iv) Shorelines;
- (v) Coastal watersheds;
- (vi) Estuaries and their drainage basins;
- (vii) Specially protected marine and coastal areas; and
- (viii) Small islands.

B. Establishment of priorities

22. Priorities for action should be established by assessing the five factors described above and should specifically reflect:

(a) The relative importance of impacts upon food security, public health, coastal and marine resources, ecosystem health, and socio-economic benefits, including cultural values, in relation to:

- (i) Source-categories (contaminants, physical alteration, and other forms of degradation and the source or practice from which they emanate);
- (ii) The area affected (including its uses and the importance of its ecological characteristics);

(b) The costs, benefits and feasibility of options for action, including the long-term cost of no action.

23. In the process of establishing priorities for action and throughout all stages of developing and implementing national programmes of action, States should:

(a) Apply integrated coastal area management approaches, including provision to involve stakeholders, in particular local authorities and communities and relevant social and economic sectors, including non-governmental organizations, women, indigenous people and other major groups;

/...

- (b) Recognize the basic linkages between the freshwater and marine environments through, inter alia, application of watershed management approaches;
- (c) Recognize the basic linkages between sustainable management of coastal and marine resources, poverty alleviation and protection of the marine environment;
- (d) Apply environmental impact assessment procedures in assessing options;
- (e) Take into account the need to view such programmes as an integrated part of existing or future comprehensive environmental programmes;
- (f) Take steps to protect: (i) critical habitats, using community-based participatory approaches that are consistent with current approaches to conservation and uses compatible with sustainable development; and (ii) endangered species;
- (g) Integrate national action with any relevant regional and global priorities, programmes and strategies;
- (h) Establish focal points to facilitate regional and international cooperation;
- (i) Apply the precautionary approach and the principle of intergenerational equity.

24. The precautionary approach should be applied through preventive and corrective measures based on existing knowledge, impact assessments, resources and capacities at national level, drawing on pertinent information and analyses at the subregional, regional and global levels. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent the degradation of the marine environment.

C. Setting management objectives for priority problems

25. On the basis of the priorities established, States should define specific management objectives, both with respect to source categories and areas affected. Such objectives should be set forth in terms of overall goals, targets and timetables, as well as specific targets and timetables for areas affected and for individual industrial, agricultural, urban and other sectors. Wherever possible, States should take immediate preventive and remedial action using existing knowledge, resources, plans and processes.

D. Identification, evaluation and selection of strategies and measures

26. Strategies and programmes to achieve these management objectives should include a combination of:

- (a) Specific measures, including, as appropriate:

- (i) Measures to promote sustainable use of coastal and marine resources and to prevent/reduce degradation of the marine environment, such as:
- a. Best available techniques (*) and best environmental practices, including substitution of substances or processes entailing significant adverse effects;
 - b. Introduction of clean production practices, including efficient use of energy and water in all economic and social sectors;
 - c. Application of best management practices;
 - d. Use of appropriate, environmentally sound and efficient technologies;
 - e. Product substitution;
- (ii) Measures to modify contaminants or other forms of degradation after generation, such as:
- a. Waste recovery;
 - b. Recycling, including effluent reuse;
 - c. Waste treatment;
- (iii) Measures to prevent, reduce or ameliorate degradation of affected areas, such as:
- a. Environmental quality criteria, with biological, physical and/or chemical criteria for measuring progress;
 - b. Land-use planning requirements, including criteria for siting of major facilities;
 - c. Rehabilitation of degraded habitats;
- (b) Requirements and incentives to induce action to comply with measures, such as:
- (i) Economic instruments and incentives, taking into account the "polluter pays" principle and the internalization of environmental costs;
 - (ii) Regulatory measures;
 - (iii) Technical assistance/cooperation, including training of personnel;

* For the purposes of this Programme, "best available techniques" is understood to include socio-economic factors.

(iv) Education and public awareness;

(c) Identification/designation of the institutional arrangement with the authority and resources to carry out management tasks associated with the strategies and programmes, including implementation of compliance provisions;

(d) Identification of short-term and long-term data-collection and research needs;

(e) Development of a monitoring and environmental-quality reporting system to review and, if necessary, help adapt the strategies and programmes;

(f) Identification of sources of finance and mechanisms available to cover the costs of administering and managing the strategies and programmes.

E. Criteria for evaluating the effectiveness of strategies and measures

27. A key element in successful strategies and programmes is to develop ongoing means of determining whether they are meeting their management objectives. States should develop specific criteria to evaluate the effectiveness of such strategies and programmes. While such criteria must be tailored to the particular mix of elements (illustrated in section C above) in each strategy or programme, they should address:

(a) Environmental effectiveness;

(b) Economic costs and benefits;

(c) Equity (costs and benefits of the strategy or programme are being shared fairly);

(d) Flexibility in administration (the strategy or programme can adapt to changes in circumstances);

(e) Effectiveness in administration (management of the strategy or programme is cost-effective and accountable);

(f) Timing (the timetable needed to put the strategy or programme in place and to begin producing results);

(g) Inter-media effects (the achievement of the objectives of the strategy or programme creates a net environmental benefit).

F. Programme support elements

28. The long-term objective of national programmes of action should be to develop integrated strategies and programmes to address all action priorities in relation to impacts upon the marine environment from land-based activities. In addition, the programmes of action must themselves be integrated with overall national objectives and other relevant programmes in relation to sustainable development. States therefore should seek to ensure that there are administrative and management structures necessary to support the national programmes of action. These include, as appropriate:

- (a) Organizational arrangements to coordinate among sectors and sectoral institutions;
- (b) Legal and enforcement mechanisms (e.g., need for new legislation);
- (c) Financial mechanisms (including innovative approaches to provide continuing and predictable programme funding);
- (d) Means of identifying and pursuing research and monitoring requirements in support of the programme;
- (e) Contingency planning;
- (f) Human resources development and education;
- (g) Public participation and awareness (e.g., based on integrated coastal area management principles).

III Regional Cooperation

Basis for action

29. Regional and subregional cooperation and arrangements are crucial for successful actions to protect the marine environment from land-based activities. This is particularly so where a number of countries have coasts in the same marine and coastal area, most notably in enclosed or semi-enclosed seas. Such cooperation allows for more accurate identification and assessment of the problems in particular geographic areas and more appropriate establishment of priorities for action in these areas. Such cooperation also strengthens regional and national capacity-building and offers an important avenue for harmonizing and adjusting measures to fit the particular environmental and socio-economic circumstances. It, moreover, supports a more efficient and cost-effective implementation of the programmes of action.

Objectives

30. To strengthen and, where necessary, create new regional cooperative arrangements and joint actions to support effective action, strategies and programmes for:

- a) Identification and assessment of problems;
- b) Establishment of targets and priorities for action;
- c) Development and implementation of pragmatic and comprehensive management approaches and processes;
- d) Development and implementation of strategies to mitigate and remediate land-based sources of harm to the coastal and marine environment.

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Activities

A. Participation in regional and subregional arrangements

31. States should :

- a) Pursue more active participation, including accession or ratification, as appropriate, in regional seas and other international marine and freshwater agreements, conventions and related arrangements;
- b) Strengthen existing regional conventions and programmes, and their institutional arrangements;
- c) Negotiate as, appropriate, new regional conventions and programmes.

B. Effective functioning of regional and subregional arrangements

32. With respect to the institutional aspects of regional and subregional arrangements, States should:

- a) Invite multilateral financing agencies, including regional development banks, and national institutions for bilateral development cooperation to cooperate in programming and in national implementation of regional agreements in the developing country regions;
- b) National action strategies and programmes can sometimes be best developed in a regional and subregional context. In developing such programmes of action, due consideration should be given to the suggested approaches and targets identified in chapter V of the present Programme of Action, and to the methodology specified in chapter II above. The programmes of action should be developed and implemented on a timetable appropriate to regional or subregional circumstances and decided upon by the governing bodies of the regional or subregional agreements, conventions or arrangements as appropriate;
- c) Establish or strengthen regional information networks and linkages for communicating with clearing-houses and other sources of information;
- d) Ensure close collaboration between the national and regional focal points and regional economic groupings, other relevant regional and international organizations, development banks and regional rivers authorities / commissions, in the development and implementation of regional programmes of action;
- e) Encourage and facilitate cooperation between and among regional organizations / conventions to promote the exchange of information, experience and expertise;
- f) Ensure that there is adequate secretariat support for regional and subregional arrangements (legal agreements and programmes of action), including:
 - i. Clear definition of secretariat functions and responsibilities;

- ii. Consolidation of secretariats, including reliance on existing institutional arrangements, where cost-effective;
- iii. Cooperation between secretariats;
- iv. Close integration of regional and subregional programmes of action and the relevant legal agreements that apply to the region and subregion.

33. In the development and implementation of the regional programmes of action, consideration should also be given to the following;

- a) Steps towards harmonization of environmental and control standards for emissions and discharges of pollutants, and agreement on data-quality assurance standards, data validation, comparative analysis, reference methods and training that are required for reliable monitoring and assessment carried out for the protection of the marine environment from land-based activities;
- b) Steps to protect critical habitats and endangered species;
- c) Exploring the use of innovative financing mechanisms that will assist the implementation of national and regional programmes of action;
- d) Building capacity and, where appropriate, identifying regional centres of excellence for research, management tools and concepts, training and capacity-building as well as contingency-planning, monitoring and assessment, including environmentally sound technology assessment;
- e) Arrangements to ensure that decision-making at the regional level is based in an integrated planning and management approach adopted at the national level;
- f) Establishment of linkages with regional or subregional fisheries arrangements, as well as other mechanisms dealing with conservation of marine species, to promote collaboration in the exchange of data and information and mutual reinforcement in the achievement of respective objectives.

34. Land-locked States whose river systems and drainage basins are linked to a particular marine region or subregion should be encouraged to participate in the relevant regional and subregional arrangements for:

- a) Identification and characterization of drainage basins that are closely linked to degradation of the coastal areas and the marine environment.
- b) of scale and monitoring of national activities and practices that are associated with degradation of the marine environment;
- c) Establishment or strengthening of national environmental management and surveillance mechanisms and networks that are consistent with regional seas agreements or other arrangements.

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35. States should encourage, where appropriate, regions to enter into interregional cooperation in order to exchange experiences and to help implement policies. Interregional cooperation may also be necessary to promote coordination of efforts for the protection and preservation of marine ecosystems and habitats.

IV. INTERNATIONAL COOPERATION

Basis for action

36. Effective international cooperation is important for the successful and cost-effective implementation of the Programme of Action. International cooperation serves a central role in enhancing capacity-building, technology transfer and cooperation, and financial support. Moreover, effective implementation of the Programme of Action requires efficient support from appropriate international agencies. Furthermore, international cooperation is required to ensure regular review of the implementation of the Programme and its further development and adjustment.

37. At the global level, there is a need for regular reviews of the state of the world marine environment, as well as dialogues, based on reports from relevant regional organizations, on implementation of regional action programmes, including exchange of experiences, the flow of financial resources in support of the implementation, in particular by countries in need of assistance, of national action to prevent and reduce marine degradation caused by land-based activities as well as scientific and technological cooperation and transfer of cleaner technology, in particular, to countries in need of assistance.

Objective

38. To strengthen existing international cooperation and institutional mechanisms and, where appropriate, to establish new arrangements, in order to support States and regional groups to undertake sustained action to address impacts upon the marine environment from land-based activities. Such actions should be based on the commitments with respect to financial resources contained in chapter 33 of Agenda 21, including paragraph 33.11, and those with respect to transfer of environmentally sound technology, cooperation and capacity-building contained in chapter 34 of Agenda 21, including paragraphs 34.4 and 34.14, as well as the commitments contained in paragraphs 17.23 and 17.48.

Activities

39. Recommended actions to give effect to these objectives in support of national and regional action to prevent and reduce marine degradation caused by land-based activities fall into four general categories:

- (a) Capacity-building;
- (b) The mobilization of financial resources;

- (c) The international institutional framework;
- (d) Additional areas of international cooperation.

A. Capacity-building

40. The mechanisms and cooperative actions should include:

- (a) The mobilization of experience in support of national and regional action to prevent and reduce marine degradation caused by land-based activities;
- (b) A clearing-house mechanism.

These mechanisms and cooperative actions should take into account the special needs of countries in need of assistance, including support for the establishment of infrastructures and the development of action programmes, as well as the alternatives and solutions that such countries are able to offer.

1. Mobilization of experience and expertise

41. States should cooperate to ensure that the most up-to-date information, experience and technical expertise with respect to each source-category of impacts upon the marine environment from land-based activities are made available and brought to bear upon national and regional actions to address such impacts. The steps to this end should include:

- (a) Establishment of linkages with international and regional organizations, including specialized agencies, with relevant expertise and responsibilities with respect to particular sources and sectors;
- (b) Promotion of cooperative interaction with private-sector groups and non-governmental organizations to introduce cost-effective and environmentally sound practices;
- (c) Facilitation and promotion of access, in particular for countries in need of assistance, to new and innovative technologies relevant to each source-category of impacts upon the marine environment from land-based activities, including those causing physical degradation and destruction of habitats;
- (d) Promotion of cleaner production techniques, inter alia, through training of industry personnel;
- (e) Promotion of new information technologies that facilitate knowledge transfer within countries and between States, including, in particular, from developed countries to countries in need of assistance;
- (f) Facilitation of access to sources (public or private, national or multilateral) of technical advice and assistance with respect to particular source-categories and sectors;

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(g) Facilitation of identification of opportunities for projects contributing to sustainable development for the private sector, including by industry and banks;

(h) Establishment of linkages with the activities of ongoing international programmes monitoring and assessing the state of marine environment and relevant river systems, for example, the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP), the Global Ocean Observing System (GOOS), the Global Investigation of Pollution in the Marine Environment (GIPME), the Global Environment Monitoring System/Water, and the World Hydrological Cycle Observing System; and

(i) Establishment of linkages with international organizations, including specialized agencies and other organizations of the United Nations system, for dealing with environmental emergencies.

2. Clearing-house

42. As a means of mobilizing experience and expertise, including facilitation of effective scientific, technical and financial cooperation, as well as capacity-building, States should cooperate in the development of a clearing-house mechanism, i.e., a referral system through which decision makers at the national and regional level are provided with access to current sources of information, practical experience and scientific and technical expertise relevant to developing and implementing strategies to deal with the impacts of land-based activities. The referral system would be designed to allow decision makers to establish rapid and direct contact with the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance. It would therefore be a mechanism for responding to requests from national Governments on a timely basis. The clearing-house would consist of three basic elements:

(a) A data directory, with components organized by source-category, cross-referenced to economic sectors, containing information on current sources of information, practical experience and technical expertise;

(b) Information-delivery mechanisms to allow decision makers to have ready access to the data directory and obtain direct contact with the sources of information, practical experience and technical expertise identified therein (including the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance);

(c) Infrastructure - the institutional process for developing, organizing and maintaining the directory and delivery mechanisms.

43. Data directory.

The data directory would include a component for each source-category delineated in this Programme of Action. Each such component would contain descriptions and contact information for each existing database and source of practical information and technical expertise. The descriptions and contact information would allow decision makers to determine which sources of information, experience and expertise are most relevant in a given situation and to contact these sources quickly. A key prerequisite for maintaining the directory is regular review of the descriptions and contact information to ensure that it is up-to-date. For each source-category, the relevant databases and sources of information, experience and expertise are likely to be dispersed among a large number of institutions and repositories, including global

and regional organizations and national Governments, the private sector and non-governmental organizations. These institutions and repositories should be fully involved in the development of the data directory component for that source-category. In this way, the directory and its components should be built upon, not replicate, the work of organizations such as the World Bank, the United Nations Development Programme (UNDP), UNEP, including the UNEP International Cleaner Production Information Clearing-house (UNEP/ICPIC), the International Atomic Energy Agency (IAEA), the International Maritime Organization (IMO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Centre for Human Settlements (UNCHS) (Habitat), the United Nations Industrial Development Organization (UNIDO), the World Health Organization (WHO) and the Arctic Monitoring and Assessment Programme (AMAP). It should in addition make full use of the Small Island Developing States Network (SIDS-NET). Where appropriate, it should also draw upon the work of other intergovernmental and non-governmental organizations and the private sector.

44. Each data-directory component should be organized so as to identify:

- (a) Sources of current information, practical experience and technical expertise on:
 - (i) The nature, pathways, fate and effects of the contaminants or other forms of degradation, including data-quality assurance techniques;
 - (ii) Standards and reference methods for monitoring contamination, as well as its concentrations, or other forms of degradation, including biological-effects monitoring and data-quality assurance techniques;
 - (iii) Policies, measures and strategies for action, including mobilization and generation of resources, that have been successfully applied (and those that have been unsuccessful) in addressing activities generating the source-category contaminants or other forms of degradation (what works and what does not); and
 - (iv) Economically rational, environmentally sound and cleaner practices, techniques and technologies to prevent, mitigate and/or control adverse impacts on the marine environment of land-based activities;
- (b) Sources of relevant information:
 - (i) In international and regional organizations (including non-governmental organizations) with relevant expertise and experience; and
 - (ii) Concerning intergovernmental and private sources of assistance, scientific, technical and financial, including such matters as the terms and conditions for the provision of such assistance.

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45. Information-delivery mechanisms.

The clearing-house mechanism must include simple and widely available means of gaining entry to the directory and retrieving information from its components, including directing inquiries to the organizations, institutions, firms and/or individuals most able to provide relevant advice and assistance. In other words, the data directory must be easily accessible to decision makers on a real-time basis. The objective would be user-friendly access to the data directory and its components through electronic means. The World Wide Web on the Internet offers such a basic access mechanism. It is recognized, however, that the Internet is not universally available. It is important, therefore, to also use and build upon existing information-delivery systems, including the UNDP network of resident representatives, INFOTERRA, and linked regional systems, including the secretariats of regional seas and other regional conventions.

46. Infrastructure.

The development, organization and maintenance of the data directory and its components and the delivery mechanisms have both specific (source-category) and general dimensions. At the general level, an inter-organizational group should be established by the relevant international organizations to coordinate the basic design and structure of the data directory as well as its linkages to information-delivery mechanisms. This group would be responsible for establishing a common format for the individual source-category components and for cross-referencing among components. It would include representatives of each lead organization responsible for coordinating development of individual data-directory components, those responsible for information-delivery mechanisms, and experts on information technology and other relevant fields.

47. For each source-category component of the data directory, a lead organization should be designated to convene or designate a group of experts to develop the content of specific entries for that component. Issues such as ensuring that entries meet quality and relevance criteria and keywords or search items relevant to the source-category would also be the responsibility of each group of experts. There would be provision to reconvene each such group periodically to update the source-category component, including ensuring that the sources of information, practical experience and technical expertise are relevant and do represent the best sources.

48. Recognizing that many developing States may not have the necessary capacity to benefit from the clearing-house mechanism, this process of implementation should provide for capacity-building, including technical training and infrastructure development.

49. The clearing-house mechanism should be designed to include feedback functions to provide for its refinement and evolution to meet the needs of its users. These feedback functions include:

- (a) Identification of data and information gaps and recommendations as to how to address such gaps;
- (b) Identification of training and infrastructure requirements for those using the clearing-house mechanism;
- (c) Provision for establishment of links between the clearing-house mechanism and regional agreements, institutions and centres holding information, experience and technical expertise of specific relevance to the region concerned.

B. Mobilizing financial resources

50. Alongside the mobilization of experience and expertise, the mobilization of financial resources is the other indispensable foundation for the development and implementation of national and regional programmes for the protection of the marine environment from land-based activities. It is recognized that the development of national and regional action programmes are of primary international importance.

51. While States recognize that, in general, the financing for the implementation of the national and regional programmes of action that will embody this Global Programme of Action should come from each country's own public and private sectors, they reaffirm:

(a) Their conclusion that international cooperation for sustainable development should be strengthened in order to support and complement the efforts of countries in need of assistance;

(b) Their acknowledgement that, for countries in need of assistance, substantial new and additional funding will be required for the actions flowing from Agenda 21;

(c) Their commitment that such funding should be provided in a way that maximizes the availability of new and additional resources and uses all available funding sources and mechanisms, as set out in paragraph 17.23 and, more generally, in chapter 33 of Agenda 21.

52. There is increasing realization worldwide of the need for action to protect the world's marine environment, described in the opening paragraphs of this Programme. Equally, it is increasingly realized that land-based activities are the predominant source of adverse impacts on the marine environment. This realization should lead to a correspondingly greater political emphasis, at national, regional and global levels, on the need to ensure the mobilization of the necessary funding for the action needed within the framework of integrated management of coastal zones and, where appropriate, associated watersheds. This in turn should be translated into an increased willingness by partners for international development cooperation to provide financing, including on concessionary and preferential terms, for projects aimed at fulfilling the objectives of this Programme of Action.

1. Scale of funding required

53. There are major differences among the different regions of the world, and the States which they comprise, in terms of geography, physiography, and ecology and, above all, in economic and social conditions, level of development and regional cooperation. In many cases, as well, the impacts on the marine environment of various contaminants and forms of physical disturbance will have different degrees of importance. All these variations will lead to different judgments on the appropriate priorities to be given to tackling the different problems mentioned in chapters II and III above. Each State will therefore develop its own appropriate set of priorities for the tasks that it decides to undertake to protect the marine environment, and these priorities will be reflected in the composition and scale of its national programme of action and any regional programme in which it participates.

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54. The amount of funding required for implementation of the present Programme, and the mix of sources and mechanisms that is appropriate, will therefore flow from these national decisions on priorities. The differing national priorities, the range of actions which may need to be undertaken and the variety of sources and mechanisms which may be used, separately or in combination, to finance them mean that there will be significant variations between States in the approach to mobilizing financial resources, in particular between developed and developing States.

2. Range of financing possibilities

55. The funding of action to address the priorities at the national and regional levels, consistent with chapters II, III and V of this Programme, requires, in the first place, the identification of all the various potential domestic funding sources and mechanisms, in order to determine which are appropriate for the priority concerned, and to find ways of linking them in an innovative fashion. An illustrative list of domestic sources and mechanisms is set out in the annex to the present Programme of Action. There will be differences between States, particularly between developed countries and countries in need of assistance, in the extent to which use of these various options is possible. As part of the preparation of their national plans, States should evaluate the potential of these options.

56. For many States, whether developed, developing or in economic transition, it will also be appropriate to look more widely for appropriate sources of financial resources and mechanisms to mobilize them effectively. Funding from domestic sources and mechanisms may be insufficient, particularly for countries in need of assistance. An illustrative list of external sources and mechanisms is also included in the annex to the present Programme of Action. Where appropriate, in the preparation of their national programmes, States should investigate the potential roles of such sources and mechanisms.

57. For countries in need of assistance, there is a limited level of domestic resources available and a wide range of demanding challenges to be faced in many fields. Where the lack of domestic financial resources means that projects in such countries will not be able to proceed, there will be recourse to external financing, particularly funding through grants and concessionary loans. In other cases, external financing, through various innovative schemes (such as co-financing and joint ventures, underwriting of country risks, and venture capital funds) can also act as a catalyst for the mobilization of domestic financial resources and provide leverage to attract additional external financial resources in order to mobilize more efficiently new financial flows.

3. Funding the programmes

58. National and regional programmes should ensure that there is a balance between the projects to be undertaken to implement national and regional priorities and the sources of funding available.

59. Where recourse to external sources and mechanisms for financial resources is necessary, the mix of the various possibilities that will be appropriate will vary from country to country. The pattern of funding will have to be determined in accordance with the decisions on individual projects.

60. Further, countries in need of assistance may need help in capacity-building for:

- (a) Development of national programmes of action;
- (b) Preparation of national assessments on each source-category;
- (c) Identification of ways and means of funding the implementation of the national plans.

61. National and international financial institutions, bilateral donors and other competent regional and international organizations should assist in this capacity-building task.

62. As part of the process of ensuring that intergovernmental agencies and other international bodies take due account of this Programme of Action, and in view of the particular significance of external finance for countries in need of assistance, it will be necessary for those international agencies concerned with the provision of finance, particularly in the form of grants and concessionary loans, to ensure that their policies give appropriate priority to assistance for projects aimed at the implementation of the Programme. A similar approach is also needed for bilateral assistance. International financial institutions should provide information on the amounts and terms of the financial resources that they might provide, in particular to countries in need of assistance.

63. Improved cooperation and coordination is essential among national institutions, international organizations, including financial institutions, and the private sector and non-governmental organizations, to enhance the effectiveness of the delivery of financial and other support.

64. Mobilizing financial resources is not a one-off task. As part of the follow-up process to this Programme, periodical reviews should be undertaken by the intergovernmental meetings referred to in paragraph 77 below as to whether it has been possible to achieve an appropriate balance between the scale and type of funding required and that which has been available in practice. In the light of such reviews, a conclusion will have to be reached on any problems encountered over access to new and additional funding sources and mechanisms, in accordance with the commitments in Agenda 21.

4. Recommended approaches for projects to be funded

65. The recommendations set out below are intended to highlight features which are important for partners in international development cooperation in the design and evaluation of, and for decisions on, projects for the protection of the marine environment for which external financing is to be sought. With appropriate modifications, they will also apply where a national or regional programme contains a series of related projects.

66. Projects need to be prepared in the context of the overall national or regional strategies, policies and programmes related to the protection of the marine environment, on the basis of its sustainable use and development. Accordingly:

(a) Projects should be derived from the priorities established nationally for the prevention, control and reduction of marine and coastal degradation within the framework of integrated management of coastal zones and, where appropriate, their associated watersheds, and consistent with the national sustainable development strategy;

(b) Chapters II, III and V of this Programme should provide the policy framework for the identification of priorities;

(c) Projects should be consistent with the principles and duty set out in chapter I above.

67. The goals for projects responding to the impact of land-based activities upon the marine environment include:

(a) Protection of the health and public amenities of coastal populations, in particular those suffering from poverty and food insecurity, including addressing sewage and industrial effluents;

(b) Conservation of marine living resources, including maintenance or increase of future options for their sustainable use;

(c) Conservation and sustainable use, including restoration, of coastal and marine biological diversity;

(d) Protection, including restoration, of habitats of marine living resources, including critical spawning and feeding areas, as well as areas used or suitable for mariculture;

(e) Alleviation of poverty as a means of reducing pressure on coastal and marine environments;

(f) Addressing, where appropriate, management of associated watersheds.

68. Other features which will make projects more likely to be effective or which will enhance their value generally include:

(a) The involvement of user and local communities that are interested, particularly the economic and social sectors affected;

(b) Consultation with organized civil society and non-governmental organizations, and the private sector;

(c) Provision for capacity-building and the development of institutions, including relevant technology and management training, human-resources development and public outreach and education;

(d) Coordination between those providing external support when several international development partners are involved;

(e) Partnerships and co-financing with the private sector;

(f) Promotion of knowledge and understanding of the marine environment;

(g) Innovation and replicability.

5. The Global Environment Facility

69. The Global Environment Facility (GEF) provides new and additional grants and concessionary loans to eligible countries to meet the agreed environmental costs of measures to achieve agreed global incremental benefits in four focal areas: climate change, biological diversity, international waters and ozone-layer depletion. The agreed incremental costs of activities concerning land degradation, primarily desertification and deforestation, as they relate to the four focal areas, are also eligible for funding. The international waters and biodiversity focal areas are most directly related to the goals of this Programme of Action, through links between land-based activities and other focal areas should be recognized. Where consistent with its operational strategies, GEF assistance can play an important role in catalysing the necessary national and regional action to address those international concerns identified in this Programme which ultimately have global linkages and global policy implications. GEF funding cannot, however, be a substitute for ordinary development aid.

70. GEF is invited to build upon the work that will be undertaken to implement this Programme of Action and fund the agreed incremental costs of activities consistent with the GEF operational strategy. It is also invited to consider:

(a) Reflecting the unity of the marine environment and its linkages to freshwater systems;

(b) Recognizing that, while the focal area of international waters is to be distinct from other areas of GEF funding, land-based activities may have links both with it and with biological diversity and climate change;

(c) Recognizing the international significance of transboundary pollution which may have its origin in a local area;

(d) Recognizing that, even where pollution or its root cause is confined to a local area, some types of pollution may affect the waters of more than one State, and thus be of international significance;

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(e) Including, where appropriate, clearly defined and targeted research and monitoring within projects.

71. States welcome the priority to be given by the GEF operational strategy for international waters to impacts upon the marine environment from land-based activities.

C. International institutional framework

72. A number of international organizations and institutions, including non-governmental organizations, regional and global, have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from one or more of the source-categories of land-based activities. The international institutional framework for implementation of this Programme of Action, therefore, should be based upon concerted action by States within the relevant organizations and institutions to accord attention and priority to impacts on the marine environment from land-based activities and concerted action by States to ensure effective coordination and collaboration among such organizations and institutions. In addition, the framework should make provision for regular review of the Programme of Action, including its implementation and necessary adjustments.

73. The process of developing this institutional framework will require a series of interlinked steps. States should commit themselves to taking action within the international organizations and institutions with responsibilities and experience regarding impacts upon the marine environment from land-based activities:

(a) To secure formal endorsement of those parts of the Programme of Action that are of relevance to such organizations and institutions;

(b) To accord priority to the prevention, reduction and control of impacts upon the marine environment from land-based activities through the economic, social and environmental mandates of such organizations and institutions; and

(c) To review regularly the state of knowledge and the state of the art with respect to the prevention, reduction and control of impacts upon the marine environment from land-based activities through the economic, social and environmental mandates of such organizations and institutions.

74. Recognizing that States have the primary role in the implementation of this Programme of Action, UNEP, as the coordinator and catalyst of environmental activities within the United Nations system and beyond, should, through its programmes and secretariat role:

(a) Promote and facilitate implementation of the Programme of Action at the national level;

(b) Promote and facilitate implementation at the regional, including subregional, level through, in particular, a revitalization of the Regional Seas Programme; and

(c) Play a catalytic role in the implementation at the international level with other organizations and institutions.

75. It is important that in fulfilling this role, including the secretariat function, UNEP should undertake it in an efficient and cost-effective manner, supported largely by the existing resources, expertise and infrastructure available in all components of UNEP's programmes. UNEP should be flexible and responsive to the evolving needs of the Programme and the availability of resources, e.g. from trust funds.

76. In facilitating the effective implementation of the Programme of Action, UNEP should maintain a close partnership with other organizations and bodies, such as IMO, WHO, FAO, the World Meteorological Organization (WMO), UNDP, UNIDO, the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO/IOC), IAEA, the World Bank and regional development banks, GEF and UNCHS (Habitat), as well as regional bodies supporting the implementation of regional seas and relevant freshwater programmes. An appropriate division of tasks is of essential importance to ensure the efficient and cost-effective implementation of the Programme of Action.

77. UNEP should, in close collaboration with the relevant organizations and institutions, convene periodic intergovernmental meetings to:

- (a) Review progress on implementation of the Programme of Action;
- (b) Review the results of scientific assessments regarding land-based impacts upon the marine environment provided by relevant scientific organizations and institutions, including GESAMP;
- (c) Consider reports provided on national plans to implement the Programme of Action;
- (d) Review coordination and collaboration among organizations and institutions, regional and global, that have responsibilities and experience with respect to prevention, reduction and control of impacts upon the marine environment from land-based activities;
- (e) Promote exchange of experience between regions;
- (f) Review progress on capacity-building (section A of this chapter) and on mobilization of resources (section B of this chapter) to support the implementation of the Programme of Action, in particular by countries in need of assistance and, where appropriate, provide guidance;
- (g) Consider the need for international rules, as well as recommended practices and procedures, to further the objectives of the Programme of Action.

78. In preparation for these meetings, States should be encouraged to provide reports, directly or through relevant regional organizations, on the implementation of the Programme of Action. Non-governmental organizations would also be invited to report on relevant activities.

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79. A component of the institutional framework for implementation of the Programme of Action is establishment of the clearing-house mechanism called for in section A of this chapter. This will require collaboration between UNEP and a variety of international organizations and institutions, including the United Nations system and international financial institutions. Specific steps include:

- (a) Determination of the composition and providing for the establishment of the inter-organizational steering group;
- (b) Designation of lead organization(s) for the development and updating of each source-category component in the data directory;
- (c) Identification of the appropriate mix of information-delivery systems.

Steps for developing institutional arrangements

80. The process of articulating the institutional framework to support and implement this Programme of Action cuts across existing institutional mandates and will require action within relevant international organizations and institutions, including those of the United Nations system and international financial institutions. It is recommended, therefore, that pertinent provisions outlined in this Programme of Action be set forth in a resolution to be adopted by the United Nations General Assembly at its fifty-first session.

81. The resolution would set forth commitment to the institutional framework outlined in the Programme of Action and agree on specific steps towards its establishment, including the clearing-house. Such steps would include identification of the international organizations and institutions, regional and global, with responsibilities and experience regarding impacts upon the marine environment from land-based activities.

82. It is recommended that the issue of the General Assembly resolution be specifically included on the agenda of the Commission on Sustainable Development for consideration in the context of its review of chapter 17 of Agenda 21, on oceans.

83. The Executive Director of UNEP is called upon to prepare a proposal setting forth a specific plan for implementing the institutional arrangements contained in this Programme of Action, including, in collaboration with other organizations, the preparation of a draft implementation plan and pilot project for the clearing-house. This proposal should be submitted to the inter-sessional meeting for the Commission on Sustainable Development, to be held in February 1996. This plan should include a clear indication of how UNEP intends to carry out its functions in this regard, including secretariat functions, its contributions to the clearing-house mechanism, proposals and action taken on coordination among relevant United Nations and other organizations and how the relevant UNEP programmes, including the Regional Seas Programme, could be strengthened to carry out an effective role in the implementation of this Programme of Action.

D. Additional areas of international cooperation

1. Waste-water treatment and management

84. In accordance with Agenda 21, especially its chapters 17 and 18, States should address the serious public health problems and the degradation of coastal ecosystems that result from the disposal in coastal areas of inadequately treated waste waters. This situation still affects many countries, particularly countries in need of assistance.

85. States agree that planning for pollution prevention, including cleaner-production approaches and best-practice urban design, and the treatment and management of urban waste water, including urban storm-water and separation of industrial effluent, are priorities in the fulfilment of the objectives of this Programme of Action and of Agenda 21. Mechanisms should be studied to expeditiously channel additional resources for this purpose to countries in need of assistance.

86. The Executive Director of UNEP, in close partnership with WHO, UNDP, UNCHS (Habitat) and other relevant organizations, is called upon to prepare a proposal setting forth a specific plan for addressing the global nature of the problems related to the inadequate management and treatment of waste water. This should take account of work already in progress in WHO and other competent international organizations, including the Noordwijk Action Programme. This plan will enable the issue to be addressed in an expeditious and efficient manner in the follow-up to the Global Programme of Action at the international level.

2. Persistent organic pollutants (POPs)

87. Consistent with decision 18/32 adopted by the UNEP Governing Council in May 1995, States should participate actively in the assessment and development of recommendations concerning the list of twelve substances identified in the UNEP decision.

88. There is agreement that:

(a) International action is needed to develop a global, legally binding instrument, amongst other international and regional actions, for the reduction and/or elimination of emissions and discharges, whether intentional or not, and, where appropriate, the elimination of the manufacture and the use of, and illegal traffic in, the persistent organic pollutants identified in UNEP Governing Council decision 18/32, for which the scientific and technical basis for action is already demonstrated, consistent with the principles of the Rio Declaration, in particular Principle 15;

(b) In developing the instrument called for above, the nature of the obligations undertaken must be developed recognizing the special circumstances of countries in need of assistance. Particular attention should be devoted to the potential need for the continued use of certain POPs and the difficulty of acquiring substitutes and of the transfer of technology for the development of those substitutes. This will require special consideration to be given to economically feasible and environmentally sound ways of ceasing to use, discharge or emit POPs selected for priority action. The reduction and/or elimination of use, emissions and discharges of POPs should, if necessary, be taken on a step-by-step basis;

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(c) The range of substances identified in UNEP Governing Council decision 18/32 require differentiated actions depending on their source, nature and use. For example, polychlorinated biphenyls (PCBs) require international cooperation for their proper management and disposal; unintended by-products, such as dioxins and furans, warrant investigation of best available technologies and alternative technologies; while pesticides require approaches addressing use and production;

(d) Furthermore, States should commit themselves to an open and transparent process to facilitate the work of the International Programme on Chemical Safety (IPCS), the Inter-Organization Programme for the Sound Management of Chemicals (IOMC) and the Intergovernmental Forum on Chemical Safety (IFCS), to assess and evaluate the environmental and socio-economic impact of other persistent organic pollutants consistent with the purpose, functions and priorities for action identified by IFCS with a view to their inclusion as appropriate in the global, legally binding instrument mentioned above.

89. To implement Governing Council decision 18/32, UNEP is undertaking a transparent process under the auspices of IOMC, involving Governments, industry, public-interest groups and relevant international organizations. This process is critical to ensuring a balanced consideration of the principal technical matters and central policy issues relevant to global action in this area.

90. States are encouraged to participate actively in the development of a legal instrument for the application of the prior informed consent (PIC) procedure for certain hazardous chemicals in international trade, consistent with UNEP Governing Council decision 18/12, adopted in May 1995.

V. RECOMMENDED APPROACHES BY SOURCE CATEGORY

91. This chapter provides guidance as to the actions that States should consider at national, regional and global levels, in accordance with their national capacities, priorities and available resources, and with the cooperation of the United Nations and other relevant organizations, as appropriate, and with the international cooperation for building capacities and mobilizing resources identified in chapter IV.

92. In the light of the differences between regions and States and the national priorities referred to in paragraphs 53 and 54 above, each State and each regional grouping should develop its own programme of action. This may or may not be a separate document but it should include specific targets and a clear timetable showing the dates by which the State or States involved commit themselves at a political level to achieve these targets.

93. In addition, action will be needed on certain matters at the global level, either to address global effects or to facilitate action at the national or regional levels. Specific targets for these matters are set out in this chapter.

A. Sewage

1. Basis for action

94. Recognizing variation in local conditions, domestic waste water improperly discharged to freshwater and coastal environments may present a variety of concerns. These are associated with: (a) pathogens that may result in human health problems through exposure via bathing waters or through contaminated shellfish, (b) suspended solids, (c) significant nutrient inputs, (d) biochemical oxygen demand (BOD), (e) cultural issues such as taboos in some areas, (f) plastics and other marine debris, (g) ecosystem population effects, and (h) heavy metals and other toxic substances, e.g. hydrocarbons, in those cases where industrial sources may have discharged effluent to municipal collection systems.

95. Environmental effects associated with domestic waste-water discharges are generally local with transboundary implications in certain geographic areas. The commonality of sewage-related problems throughout coastal areas of the world is significant. Consequently, domestic waste-water discharges are considered one of the most significant threats to coastal environments worldwide.

2. Objective/proposed target

96. With regard to objectives and targets, paragraph 21.29 of Agenda 21 states:

"Governments, according to their capacities and available resources and with the cooperation of the United Nations and other relevant organizations, as appropriate, should:

"(a) By the year 2000, establish waste treatment and disposal quality criteria, objectives and standards based on the nature and assimilative capacity of the receiving environment;

"(b) By the year 2000, establish sufficient capacity to undertake waste-related pollution impact monitoring and conduct regular surveillance, including epidemiological surveillance, where appropriate;

"(c) By the year 1995, in industrialized countries, and by the year 2005, in developing countries, ensure that at least 50 per cent of all sewage, waste waters and solid wastes are treated or disposed of in conformity with national or international environmental and health quality guidelines;

"(d) By the year 2025, dispose of all sewage, waste waters and solid wastes in conformity with national or international environmental quality guidelines."

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3. Activities

(a) National actions, policies and measures

97. Actions, policies and measures of States within their national capacities should include:

- (a) Identification of major sewage sources and areas where sewage poses major environmental and health-related hazards;
- (b) Development of national programmes of action for the installation of appropriate and environmentally sound sewage facilities, and to this end ensure:
 - (i) Incorporation of sewage concerns when formulating or reviewing coastal-development and land-use plans, including human-settlements plans;
 - (ii) Building and maintenance of sewer systems and sewage-treatment facilities or other appropriate systems, in accordance with national policies and capacities and international cooperation available;
 - (iii) Location of coastal outfalls so as to obtain or maintain agreed environmental quality criteria and to avoid exposing shell fisheries, water intakes, and bathing areas to pathogens and to avoid the exposure of sensitive environments (such as lagoons, coral reefs, seagrass beds, mangroves, etc.) to excess nutrient loads;
 - (iv) Promotion of the reuse of treated effluents for the conservation of water resources. To this end, infrastructural measures, treatment at source and segregation of industrial effluents, shall be encouraged, as well as:
 - a) Encouragement of the beneficial reuses of sewage effluents and sludges by the appropriate design of treatment plants and processes and controls of the quality of influent waste waters;
 - b) Ensuring the environmentally sound treatment when domestic and compatible industrial effluents are treated together;
 - (v) Promotion of primary, secondary and, where appropriate and feasible, tertiary treatment of municipal sewage discharged to rivers, estuaries and the sea;
 - (vi) Reduction and beneficial use of sewage or other solutions appropriate to specific sites such as no-water and low-water solutions;
 - (vii) Establishment and improvement of local and national regulatory and monitoring programmes to control and assess effluent discharge, using minimum sewage effluent guidelines and water quality criteria and giving due consideration to the characteristics of receiving bodies and the volume and type of pollutants;

(viii) Identification of the availability and sustainability of productive uses of sewage sludge, such as land-spreading, composting, etc.;

(ix) Establishment of research programmes to identify, validate and develop waste-water treatment technologies;

(c) Provision of sufficient training and education for local administrations to plan, build and run adequate sewage treatment facilities;

(d) Formulation and implementation of awareness campaigns for the general public to gain general recognition for the need for the installation of appropriate and environmentally sound sewage facilities.

(b) Regional actions

98. Regional actions should include:

(a) Promotion and implementation of regional cooperation for the establishment and implementation of programmes and priority measures for sewage, particularly in case of transboundary effects;

(b) Development of regional programmes for sharing and exchanging technical information and advice regarding environmentally sound sewage treatment and facilities.

(c) International actions

99. International actions should include:

(a) Participation in a clearing-house on environmentally sound sewage technology and practices;

(b) Facilitation of transfer of environmentally sound sewage technology;

(c) Scientific, technical and financial cooperation with countries in need of assistance, in developing, installing, operating and monitoring appropriate and environmentally sound sewage facilities.

B. Persistent organic pollutants (POPs)

1. Basis for action

100. Persistent organic pollutants (POPs) are a set of organic compounds that: (i) possess toxic characteristics; (ii) are persistent; (iii) are liable to bioaccumulate; (iv) are prone to long-range transport and deposition; and (v) can result in adverse environmental and human health effects at

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locations near and far from their source. POPs are typically characterized as having low water solubility and high fat solubility. Most POPs are anthropogenic in origin. Anthropogenic emissions, both point and diffuse, are associated with industrial processes, product use and applications, waste disposal, leaks and spills, and combustion of fuels and waste materials. Once dispersed, clean-up is rarely possible. Because many POPs are relatively volatile, their remobilization and long-distance redistribution through atmospheric pathways often complicates the identification of specific sources.

101. POPs have long environmental half-lives. Accordingly, successive releases over time result in continued accumulation and the ubiquitous presence of POPs in the global environment.

102. The primary transport routes into the marine and coastal environment include atmospheric deposition and surface run-off. Regional and global transport is predominately mediated by atmospheric circulation, but also occurs through sediment transport and oceanic circulation. Movement may also occur through a successive migration of short-range movements that result from a sequence of volatilization, deposition, and revolatilization. Due to these transport patterns and chemical characteristics, there is a growing body of evidence demonstrating the systematic migration of these substances to cooler latitudes.

2. Objective/proposed target

103. The objective/proposed target is:

(a) To reduce and/or eliminate emissions and discharges of POPs that threaten to accumulate to dangerous levels in the marine and coastal environment;

(b) To give immediate attention to finding and introducing preferable substitutes for chemicals that pose unreasonable and otherwise unmanageable risks to human health and the environment;

(c) To use cleaner production processes, including best available techniques, to reduce and/or eliminate hazardous by-products associated with production, incineration and combustion (e.g. dioxins, furans, hexachlorobenzene, polycyclic aromatic hydrocarbons (PAHs));

(d) To promote best environmental practice for pest control in agriculture and aquaculture.

3. Activities

(a) National actions, policies and measures

104. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories of point-source releases of POPs, identification and assessment of diffuse sources and sinks from which POPs may remobilize, and assessment of inputs from these sources as a basis for pollution control and prevention measures;

- (b) Development of comprehensive national programmes of action for the reduction and/or elimination of emissions and discharges, and where applicable, remobilization from all significant sources of POPs, including targets and timetables and sector-specific measures for industry and agriculture:
- i. Adoption of appropriate policy instruments - which could include regulation, economic instruments and voluntary agreements - on POPs applying the precautionary principle and the "polluter pays" principle. Priority should be given to phasing out or banning of chemicals that pose unreasonable and otherwise unmanageable risks to human health and the environment and whose use can not be adequately controlled. This can be achieved through substitution by environmentally sound substances, use of best available techniques (BAT), application of best environmental practice (BEP) and implementation of integrated pollution prevention and control (IPPC);
 - ii. Development of appropriate regulatory measures and establishment of facilities for environmentally sound collection and disposal of wastes containing POPs;
 - iii. Establishment of an environmental monitoring programme for POPs including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;
 - iv. Development of programmes to promote the informed use of substances which can result in discharges and emissions of POPs from diffuse sources, including the promotion of good agricultural practice to limit the use of pesticides to the application rates essential for crop protection, and restraint in the non-agricultural use of pesticides, especially on roads and railways;
 - v. Establishment of information services for industry and agriculture on least environmentally hazardous handling and use of POPs, and on substitutes, technology and ways and means to prevent, reduce and eliminate pollution by POPs, including best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC);
 - vi. Ratification and implementation of relevant international and regional conventions and agreements;
 - vii. Ensuring the effective implementation of relevant bilateral, regional and international decisions and recommendations, inter alia, by:
 - a) Assessing regularly whether the national goals and measures to reduce and eliminate pollution by POPs are being accomplished;

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- b) Compliance monitoring, assessing and reporting the effects of these measures;
and
- c) Establishing or strengthening, as appropriate, institutions to deal effectively with the problems of POPs.

(b) Regional actions

105. Regional actions should include:

(a) Encouraging existing regional agreements and programmes of action on the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to set up and implement programmes and priority measures to prevent, reduce and/or eliminate emissions and discharges of POPs and materials containing POPs from all sources. To this end, they should, inter alia:

- (i) Adopt targets and timetables for reduction and/or elimination of POPs releases through their substitution, and on best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC);
- (ii) Adopt decisions and recommendations on the development of harmonized assessment criteria and monitoring programmes based on regionally or internationally agreed quality control and quality assurance procedures;
- (iii) Provide member States with technical information and advice regarding handling, use and disposal of POPs and their substitutes and ways and means to minimize and eliminate their release to the environment;
- (iv) Ensure transparency of the implementation of decisions and recommendations by adopting regular reporting on implementation and monitoring of measures regarding POPs; and
- (v) Assess compliance with, and the effects of, the agreed measures;

(b) Encouraging States that are not already parties to regional agreements and action plans on the prevention and elimination of pollution of the marine and coastal environment from land-based activities to join such cooperation and to cooperate on a bilateral and/or a multilateral basis in the regulation of POPs;

(c) Encouraging the strengthening of or, as appropriate, establishing regional institutions to deal effectively with the problems of POPs.

(c) International actions

106. International actions should include:

(a) Urging international, regional and subregional funding sources and mechanisms and donor countries, to ensure that the objectives, principles and measures laid down in this chapter be taken into account when supporting projects that directly or indirectly relate to emissions, discharges and, where appropriate, the manufacture and use of POPs, as well as the clean-up and restoration of areas polluted with POPs;

(b) Encouraging international, regional and subregional funding sources and mechanisms to ensure that available financial resources are made available for supporting measures to reduce or eliminate releases of POPs to the environment;

(c) Inviting appropriate international agencies and bodies to strengthen necessary information exchange, transfer of environmentally sound technology and capacity-building for the implementation of the objectives, principles and measures laid down in this chapter for the reduction and/or elimination of POPs releases to the environment;

(d) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for POPs to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those co-sponsored by IOC, UNEP and IAEA under the GIPME programme, and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(e) Cooperation with countries in need of assistance, through financial, technical and scientific support, in order to reduce and/or eliminate emissions and discharges of POPs that threaten to accumulate to dangerous levels in the marine and coastal environment;

(f) Priority attention should be given to finding and introducing preferable substitutes for POPs that pose unreasonable and otherwise unmanageable risks to human health and the environment.

C. Radioactive substances

1. Basis for action

107. Radioactive substances (i.e., materials containing radionuclides) have entered and/or are entering the marine and coastal environment, directly or indirectly, as a result of a variety of human activities and practices. These activities include production of energy, reprocessing of spent fuel, military operations, nuclear testing, medical applications and other operations associated with the management and disposal of radioactive wastes and the processing of natural materials by industrial processes. Other activities, such as the transport of radioactive material, pose risks of such releases.

108. Radioactive materials can present hazards to human health and to the environment. Suspected radioactive contamination of foodstuffs can also have negative effects on marketing of such foodstuffs.

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2. Objective/proposed target

109. The objective/proposed target is to reduce and/or eliminate emissions and discharges of radioactive substances in order to prevent, reduce and eliminate pollution of the marine and coastal environment by human-enhanced levels of radioactive substances.

3. Activities

(a) National actions, policies and measures

110. Actions, policies and measures of States within their national capacities should include:

(a) Promotion of policies and practical measures including setting targets and timetables to minimize and limit the generation of radioactive wastes and provide for their safe processing, storage, conditioning, transportation and disposal;

(b) Ensuring the safe storage, transportation and disposal of radioactive wastes, as well as spent radiation sources and spent fuel from nuclear reactors destined for final disposal, in accordance with international regulations or guidelines;

(c) Ensuring proper planning, including environmental impact assessment, of safe and environmentally sound management of radioactive waste, including emergency procedures, storage, transportation and disposal, prior to and after activities that generate such waste;

(d) Adoption of measures, including best available techniques and best environmental practice, for the reduction and/or elimination of inputs of radioactive substances to the marine and coastal environment for the purpose of preventing and eliminating pollution of the marine and coastal environment;

(e) Ratification and/or implementation of relevant international and regional conventions, decisions and resolutions.

111. States should:

(a) Not promote or allow the storage or disposal of high-level, intermediate-level and low-level radioactive wastes near the marine and coastal environment unless they determine that scientific evidence, consistent with the applicable internationally agreed principles and guidelines, shows that such storage or disposal poses no unacceptable risk to people and the marine and coastal environment or does not interfere with other legitimate uses of the sea, making, in the process of consideration, appropriate use of the concept of the precautionary approach;

(b) Respect, in accordance with international law, the decisions, as far as applicable to them, under other relevant regional and other international environmental conventions dealing with other aspects of safe and environmentally sound management of radioactive wastes;

(c) Conclude and sign the Comprehensive Test Ban Treaty by no later than 1996; (*)

(d) Make available information on the characteristics of terrestrial dump sites in coastal areas through, and consistent with, agreed regional and international reporting procedures. The information should include the magnitude, types of materials, characteristics of storage and status of the dump sites.

(b) Regional actions

112. Relevant regional organizations, in accordance with regional needs and capacities, should ensure:

(a) Monitoring of radioactivity in their regions and identification of any problem areas;

(b) The establishment of criteria for assessing and/or reporting on the use in their region of best available techniques to prevent and eliminate pollution by inputs of radioactive substances;

(c) The preparation of comprehensive environmental assessments of the effect on the marine and coastal environment of historical discharges and current discharges of radioactive substances.

(c) International actions

113. International actions should include:

(a) Support for efforts under the auspices of IAEA to develop and promulgate radioactive waste management safety standards, guidelines or codes of practice, including work being undertaken towards an international convention on the safety of radioactive waste management, in order to provide an internationally accepted basis for the safe and environmentally sound management and disposal of radioactive wastes. This work should take account of the application of best available techniques and best environmental practice for all nuclear applications not currently covered by internationally binding agreements making such provisions;

(b) Cooperation with countries in need of assistance, through financial, technical and scientific support, in ensuring environmentally sound management and storage of radioactive materials as well as supporting environmental restoration efforts;

(c) Maintenance of existing international quality assurance and standardization mechanisms supporting the reliable measurement and assessment of radionuclides in the environment. Such existing mechanisms include the Analytical Quality Control Services provided by the Marine Environmental Studies Laboratory of IAEA;

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(d) Consideration by all Governments and international organizations that have expertise in the field of clean-up and disposal of radioactive contaminants to give appropriate assistance as may be requested for remedial purposes in adversely affected areas.

D. Heavy metals

1. Basis for action

114. Heavy metals are natural constituents of the Earth's crust. Human activities have drastically altered the biochemical and geochemical cycles and balance of some heavy metals. Heavy metals are stable and persistent environmental contaminants since they cannot be degraded or destroyed. Therefore, they tend to accumulate in the soils and sediments. Excessive levels of metals in the marine environment can affect marine biota and pose risk to human consumers of seafood.

115. Metals and their compounds, both inorganic and organic, are released to the environment as a result of a variety of human activities. A wide range of metals and metallic compounds found in the marine environment pose risks to human health through the consumption of seafood where contaminant content and exposure are significant. Many metals are essential to life and only become toxic when exposures to biota become excessive (i.e., exceed some threshold for the introduction of adverse effects). While certain non-essential metals do not have explicit exposure thresholds for the introduction of effects, the nature of biological responses to metal exposure are a direct consequence of exposure and are defined through dose-effect relationships. This differs from the dose-response relationship associated with many synthetic organic contaminants and radionuclides where risk of adverse effects is assumed to be proportional to exposure. Accordingly, it is desirable to minimize such exposures. In contrast, the predominant challenge in the case of heavy metals is one of limiting exposure to levels that do not cause adverse effects.

116. The main anthropogenic sources of heavy metals are various industrial point sources, including present and former mining activities, foundries and smelters, and diffuse sources such as piping, constituents of products, combustion by-products, traffic, etc. Relatively volatile heavy metals and those that become attached to air-borne particles can be widely dispersed on very large scales. Heavy metals conveyed in aqueous and sedimentary transport (e.g., river run-off) enter the normal coastal biogeochemical cycle and are largely retained within near-shore and shelf regions.

2. Objective/proposed target

117. The objective/proposed target is to reduce and/or eliminate anthropogenic emissions and discharges in order to prevent, reduce and eliminate pollution caused by heavy metals.

3. Activities

(a) National actions, policies and measures

118. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories on significant sources, including natural sources, of priority heavy metals and their compounds and subsequent assessment of inputs and establishment of priority (geographic or subject) areas for action. They should also, where appropriate, take into account input from long-range transport of these pollutants;

(b) Development of comprehensive national programmes of action for reduction and/or elimination of emissions and discharges of heavy metals from anthropogenic sources could include:

- (i) Targets, timetables and sector-specific measures, respecting the precautionary principle, best available techniques (BAT), best environmental practice (BEP) and integrated pollution prevention and control (IPPC);
- (ii) Fiscal and economic incentives and measures, including voluntary agreements to encourage reduction and/or elimination of emissions and discharges of heavy metals;
- (iii) Appropriate regulatory measures and establishment of facilities for environmentally sound collection and disposal of hazardous wastes containing heavy metals taking into account the technical document on landfill agreed upon within the framework of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- (iv) Promotion of technical solutions, such as the use of unleaded petrol and filter systems for smelters;
- (v) Means to ensure effective implementation of the programme of action;
- (vi) The establishment of cleaner production programmes in cooperation with industry;

(c) Establishment of an environmental monitoring programme for heavy metals including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;

(d) Formulation and implementation of awareness and education campaigns for the public and industry, to gain general recognition of the need to reduce and eliminate pollution by heavy metals and in particular to further reduce diffuse inputs through waste systems, including sewerage systems;

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(e) Establishment of information services for industry on technology and ways and means to prevent, reduce and eliminate pollution by heavy metals, including best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC);

(f) Promotion of private initiatives for the establishment and implementation of systems of internal environmental management within industry.

(b) Regional actions

119. Regional actions should include:

(a) Encouraging existing regional agreements and programmes of action dealing with the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to develop or continue to develop and implement programmes and measures to reduce and/or eliminate emissions and discharges of heavy metals and material containing these substances from the appropriate industrial sectors, products and groups of products;

(b) Development and implementation of monitoring programmes and regular assessments of levels, inputs and effects based on regionally agreed quality control and quality assurance procedures and harmonized assessment criteria;

(c) Encouraging States, including land-locked States, that are not already parties to regional seas arrangements regarding the protection of the marine and coastal environment from land-based activities to join such cooperation and to cooperate on bilateral and multilateral basis in the control of pollution from heavy metals;

(d) Promotion of cooperation in the development of cleaner production programmes.

(c) International actions

120. International actions should include:

(a) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for heavy metals and their compounds to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those co-sponsored by IOC, UNEP and IAEA under the GIPME programme and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(b) Participation in a clearing-house for information on best available techniques (BAT), best environmental practice (BEP) and integrated pollution prevention and control (IPPC) to reduce and/or eliminate emissions and discharges of heavy metals;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support to maximize the best practicable control and reduction of anthropogenic emissions and discharges of heavy metals.

E. Oils (Hydrocarbons)

1. Basis for action

121. Many oils are liquid and gaseous hydrocarbons of geological origin. While some oils are naturally occurring, a significant proportion of those in the marine and coastal environment have been derived from anthropogenic sources. Most oils from land-based sources are refined petroleum products or their derivatives. Some oils are volatile or easily degraded and disappear rapidly from aquatic systems, but some may persist in the water column or in sediments. Oils may be toxic to aquatic life when ingested or absorbed through skin or gills, interfere with respiratory systems, foul fur and feathers, smother aquatic communities, habitats and bathing beaches, taint seafood and contaminate water supplies.

122. Land-based sources of oils include operational and accidental discharges and emissions from oil exploration, exploitation, refining and storage facilities; urban, industrial and agricultural run-off; transport; and the inappropriate disposal of used lubricating oils. The main pathways to the marine environment include atmospheric dispersion of volatile fractions; storm sewers and sewage treatment works; and rivers. Impacts from land-derived oils will be regional for the more volatile fractions, and local (occasionally regional) for more refractory components.

2. Objective/proposed target

123. The objective is to prevent, reduce and/or eliminate anthropogenic emissions and discharges in order to prevent, reduce and eliminate pollution caused by oil.

3. Activities

(a) National actions, policies and measures

124. Actions, policies and measures of States within their national capacities should include:

(a) Development, compilation and maintenance of inventories of significant sources of oils, and subsequent assessment and establishment of areas (geographic or substance) for action. They should also, where appropriate, take into account inputs from long-range transport of these pollutants;

(b) Development of comprehensive national programmes of action for the reduction and/or elimination of priority emissions and discharges from anthropogenic sources could include:

(i) Targets, timetables, and sector-specific measures respecting the precautionary principle and applying best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC);

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- (ii) Fiscal and economic incentives and measures, including voluntary agreements, to encourage reductions in emissions and discharges of oils, to encourage the recycling of used lubricating oils, and to encourage fuel-use efficiencies;
 - (iii) The provision of reception and recycling facilities for oily wastes;
 - (iv) Development of plans and measures to prevent accidental releases of oils, particularly from coastal refineries, storage facilities and waste reception facilities and of capacities to respond to such accidents;
 - (v) Establishment of cleaner production programmes in cooperation with industry;
 - (vi) Means to ensure the effective implementation of the programme of action;
- (c) Establishment of environmental monitoring programmes for oil, including the development of assessment criteria and the adoption of internationally accepted quality control and quality assurance procedures;
- (d) Formulation and implementation of awareness and education campaigns for the public and industry to gain general recognition of the need and ways to reduce emissions and discharges of oil, and, in particular, to further reduce diffuse inputs through waste systems, including sewerage systems;
- (e) Establishment of information services for industry on technology and ways and means to prevent, reduce and eliminate pollution by oil, including best environmental practice (BEP), best available techniques (BAT), and integrated pollution prevention and control (IPPC);
- (f) Promotion of private initiatives for the establishment and implementation of systems of internal environmental management within industry.

(b) Regional actions

125. Regional actions should include:

- (a) Encouraging existing regional agreements and programmes of action on the prevention and elimination of pollution of the marine and coastal environment from land-based activities, to develop or continue to develop and implement programmes and measures to reduce and/or eliminate emissions and discharges of oils from the appropriate industrial sectors, products and groups of products;

(b) Adoption of programmes and measures on the development of harmonized assessment criteria and monitoring programmes based on regionally or internationally agreed quality control and quality assurance procedures;

(c) Encouraging States, including land-locked States, that are not already parties to regional seas arrangements regarding the protection of the marine and coastal environment from land-based activities, to join such cooperation and to cooperate on bilateral and multilateral basis in the control of pollution from oil;

(d) Promoting cooperation on the development of cleaner- production programmes, best available techniques, and best environmental practice;

(e) Development of regional plans and measures to prevent accidental releases of oils, and development of regional capacities to respond to such accidents;

(f) Where appropriate, the provision of regional reception and recycling facilities for oily wastes.

(c) International actions

126. International actions should include:

(a) Strengthening and extending existing international quality assurance, standardization and classification mechanisms for oil, oil products and their constituents to ensure that inventories and assessments are both reliable and intercomparable. Such existing mechanisms include those co-sponsored by IOC, UNEP, and IAEA under the GIPME programme, and the associated activities of the Marine Environmental Studies Laboratory in Monaco;

(b) Participation in a clearing-house for information on best available techniques (BAT), best environmental practice (BEP), and integrated pollution prevention and control (IPPC) to reduce and/or eliminate emissions and discharges of oil;

(c) Cooperation with countries in need of assistance through financial, technical, and scientific support, to maximize the best practicable control and reduction in emissions and discharges of oil.

F. **Nutrients**

1. Basis for action

127. Eutrophication can result from augmentation of nutrient inputs to coastal and marine areas as a consequence of human activities. In general, such eutrophication is usually confined to the vicinity of coastal discharges but, because of both the multiplicity of such discharges and regional atmospheric transport of nutrients, such affected coastal areas can be extensive.

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128. The effects of the enhanced mobilization of nutrients are enhanced productivity but these can also result in changes in species diversity, excessive algal growth, dissolved oxygen reductions and associated fish kills and, it is suspected, the increased prevalence or frequency of toxic algal blooms.

2. Objective/proposed target

129. The objective/proposed target is:

- (a) To identify, in broad terms, marine areas where nutrient inputs are causing or are likely to cause pollution, directly or indirectly;
- (b) To reduce nutrient inputs into the areas identified;
- (c) To reduce the number of marine areas where eutrophication is evident;
- (d) To protect and, where appropriate, to restore areas of natural denitrification.

3. Activities

(a) National actions, policies and measures

130. Actions, policies and measures of States within their capacities should include:

- (a) Identification of areas where nutrient inputs are likely to cause pollution, directly or indirectly;
- (b) Identification of point sources and diffuse sources of nutrient inputs into these areas;
- (c) Identification of areas where changes in anthropogenic nutrient inputs are causing or are likely to cause pollution, either directly or indirectly, and prioritization of these areas for action;
- (d) Adoption of appropriate cost-effective policy instruments, including regulatory measures, economic instruments and voluntary agreements, to control anthropogenic sources of nutrients affecting these areas, including:
 - (i) Activities related to sewage treatment and management mentioned in paragraph 97 (b) above;
 - (ii) Minimization of the release of nutrients by the use of best environmental practice (BEP) in agriculture and aquaculture operations;
 - (iii) Minimization of the release of nutrients by the use of best environmental practice (BEP), best available techniques (BAT) and integrated pollution prevention and control (IPPC) in industrial operations;

- (iv) Formulation and implementation of awareness and information campaigns for the adoption of appropriate agricultural techniques, including balanced fertilization and ecological agriculture, to minimize nutrient losses from agricultural activities;
- (v) Introduction of measures to reduce inputs of nutrients via atmospheric deposition from transportation, industrial plants and agriculture;
- (e) Strengthening the capacities of local authorities to take account of likely impacts of inputs of nutrients from agriculture and urban development in carrying out their functions of planning and controlling land-use and development;
- (f) Establishment or improvement, as appropriate, of monitoring of all aspects of eutrophication;
- (g) Promotion of scientific research on the suspected linkages between eutrophication and toxic algal blooms;
- (h) Development and adoption of programmes to protect and, where appropriate, restore habitats acting as natural sinks for nutrients such as wetlands.

(b) Regional actions

131. Regional actions should include:

- (a) Establishment of common criteria for the identification of existing and potential problem areas including possible solutions with regard to eutrophication;
- (b) Identification of marine areas in the region where nutrient inputs are causing or are likely to cause pollution, directly or indirectly;
- (c) Identification of areas for priority actions;
- (d) Establishment of uniform approaches to the calculation of anthropogenic nutrient inputs to the aquatic environment from agriculture and other sources, as appropriate, with the aim of improving the estimation of these inputs;
- (e) Development and implementation of programmes and measures for reducing nutrient inputs from anthropogenic activities to areas where these inputs are causing or are likely to cause pollution directly or indirectly and, where the agricultural sector is a predominant source, to pay particular attention to that sector and the implementation of measures identified for it;

/...

(f) Establishment of mechanisms for assessing the effectiveness of the measures taken to reduce nutrient inputs to the aquatic environment from both point and diffuse sources;

(g) Development of strategies for reducing eutrophication in areas already affected and those susceptible to being affected.

(c) International actions

132. International actions should include:

(a) Participation in a clearing-house for providing information about best environmental practice and access to best available techniques to reduce and/or eliminate causes of anthropogenic eutrophication;

(b) Strengthening of international programmes for enhancing capacity for:

(i) Identification of areas where inputs of nutrients are causing or are likely to cause pollution, directly or indirectly;

(ii) Nutrient control and removal techniques;

(iii) Application of best environmental practice in aquaculture and agriculture;

(c) Cooperation with countries in need of assistance, through financial, technological and scientific support, in developing and implementing practices which minimize releases of nutrients to the environment, including environmentally sound land-use techniques, planning and practices;

(d) Provision of forums for establishing criteria for determining the circumstances in which nutrients are likely to cause pollution, directly or indirectly;

(e) Maintaining existing international quality assurance and quality control procedures relevant to eutrophication.

G. Sediment mobilization

1. Basis for action

133. Natural sedimentation and siltation are important in the development and maintenance of numerous coastal habitats. Habitats requiring sediment input include coastal wetlands, lagoons, estuaries and mangroves. Reduction in natural rates of sedimentation can compromise the integrity of these habitats, as can excessive sediment loads, which may bury benthic communities and threaten sensitive habitats such as coral reefs, mangroves, seagrass beds, and rocky substrates.

134. Contaminated sediments, whether they are fresh inputs or dredged, may also lead to pollution, the latter through resuspension or improper disposal.

135. Anthropogenic modifications to sediment mobilization and sedimentation are made by, inter alia, construction activities, forestry operations, agricultural practices, mining practices, hydrological modifications, dredging activities, and coastal erosion. Effects are generally local in nature, but transboundary implications may occur in some areas where major river systems form a common border and where littoral currents carry inputs across international boundaries.

2. Objective/proposed target

136. The objective/proposed target is to reduce, control and prevent the degradation of the marine environment due to changes in coastal erosion and siltation caused by human activities.

3. Activities

(a) National actions, policies and measures

137. Actions, policies and measures of States within their capacities should include:

(a) Development and implementation of environmentally sound land-use practices to control sediment discharges to watercourses and estuaries which cause degradation of the marine environment;

(b) Establishment of measures to control, reduce and prevent coastal erosion and siltation due to anthropogenic factors such as land-use, including coastal mining and construction practices, while ensuring that natural erosion supplying sedimentary habitats is not impeded;

(c) Introduction of watershed management and land-use practices to prevent, control and reduce degradation of the marine environment due to anthropogenic changes in sediment loads and contamination of sediments;

(d) Application of practices developed under existing international regulations to prevent marine pollution/degradation from dumping of dredged material and associated dredging operations;

(e) Establishment or improvement of monitoring of sediment transport to the marine environment and associated sedimentation patterns and rates;

(f) Application of environmentally sound management and storage practices for polluted dredged material;

(g) Adoption of measures to minimize changes to natural erosion, sediment transport and sedimentation resulting from the construction of barriers and barrages.

(b) Regional actions

138. Regional actions should include:

/...

(a) Promotion of regional cooperation, where appropriate, for the establishment of programmes and priority measures to control anthropogenic modifications to sedimentation/siltation;

(b) Development or enhancement, as appropriate, of regional programmes for the exchange of information on technology and techniques and experience regarding sedimentation/siltation.

(c) International actions

139. International actions should include:

(a) Development of methodologies to reduce, control and prevent adverse effects of sedimentation/ siltation, including the formulation of mechanisms for determining changes in sediment mobilization and transport, incorporating relevant quality assurance and standardization procedures;

(b) Participation in a clearing-house for providing information on technologies, measures and experiences regarding sedimentation/siltation;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support, in the development and implementation of environmentally sound land-use techniques, planning and practices to reduce, control and prevent the negative effects of changes in erosion and siltation rates.

H. Litter

1. Basis for action

140. Litter threatens marine life through entanglement, suffocation and ingestion and is widely recognized to degrade the visual amenities of marine and coastal areas with negative effects on tourism and general aesthetics. Litter is any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment, sometimes called marine debris. Litter in the marine environment can also destroy coastal habitats and in some situations interfere with biological production in coastal areas.

141. Litter entering the marine and coastal environment has multiple sources. Sources include poorly managed or illegal waste dumps adjacent to rivers and coastal areas, windblown litter from coastal communities, resin pellets used as industrial feedstocks, and litter that is channelled to the marine and coastal environment through municipal stormwater systems and rivers. Marine litter is also caused by dumping of garbage into the marine and coastal environment by municipal authorities as well as recreational and commercial vessels.

142. While international action has been taken to prevent the discharge of plastics and other persistent wastes from vessels, it has been estimated that approximately 80 per cent of persistent wastes originate from land. Floatable litter is known to travel considerable distances with regional and sometimes broader implications. Resin pellets used as industrial feedstock circulate and deposit on oceanic scales.

143. Uncontrolled burning of litter containing plastics may generate significant quantities of POPs, metals and hydrocarbons which can reach the marine and coastal environment.

2. Objective/proposed target

144. The objective/proposed target is:

(a) To establish controlled and environmentally sound facilities for receiving, collecting, handling and disposing of litter from coastal area communities;

(b) To reduce significantly the amount of litter reaching the marine and coastal environment by the prevention or reduction of the generation of solid waste and improvements in its management, including collection and recycling of litter.a. In this context, paragraph 21.39 of Agenda 21 states:

"The overall objective of this programme is to provide health- protecting environmentally safe waste collection and disposal services to all people. Governments, according to their capacities and available resources and with the cooperation of the United Nations and other relevant organizations, as appropriate, should:

"(a) By the year 2000, have the necessary technical, financial and human resource capacity to provide waste collection services commensurate with needs;

"(b) By the year 2025, provide all urban populations with adequate waste services;

"(c) By the year 2025, ensure that full urban waste service coverage is maintained and sanitation coverage achieved in all rural areas."

3. Activities

(a) National actions, policies and measures

146. Actions, policies and measures of States within their capacities should include:

(a) Introduction of appropriate measures -which could include regulatory measures and/or economic instruments and voluntary agreements -to encourage reduction in the generation of solid wastes;

(b) Installation of garbage containers for citizens in public areas for the purposes of appropriate collection and/or recycling;

/...

(c) Establishment and ensuring the proper operation of solid-waste-management facilities on shore for wastes from all sources, including shipping and harbour wastes;

(d) Formulation and implementation of awareness and education campaigns for the general public, industry, and municipal authorities, as well as recreational and commercial vessels, on the need to reduce waste generation and the need for environmentally sound disposal and reuse;

(e) Increasing local planning and management capacity to avoid location of waste-dump sites near coastlines or waterways or to avoid litter escape to the marine and coastal environment;

(f) Formulation and implementation of improved management programmes in small rural communities to prevent litter escape into rivers and the marine and coastal environment;

(g) Establishment of campaigns and/or permanent services for collecting solid wastes that pollute coastal and marine areas.

(b) Regional actions

147. Regional actions should include the promotion of regional cooperation for the exchange of information on practices and experiences regarding waste management, recycling and reuse, and cleaner production, as well as regional arrangements for solid-waste management.

(c) International actions

148. International actions should include:

(a) Participation in a clearing-house on waste management, recycling and reuse, and waste-minimization technologies;

(b) Cooperation with countries in need of assistance, through financial, scientific and technological support, in developing and establishing environmentally sound waste-disposal methods and alternatives to disposal.

I. Physical alterations and destruction of habitats

1. Basis for action

149. The increase of populations and economic activities in coastal areas is leading to an expansion of construction and alterations to coastal areas and waters. Excavation, oil and gas exploration and exploitation, mining, such as sand and aggregate extraction, the building of ports and marinas and building of coastal defences and other activities linked to urban expansion are giving rise to alterations of coral reefs, shorelands, beachfronts and the seafloor. Important habitats are being destroyed. Wetlands are being transformed into agricultural lands and through coastal development. Tourism, unrestricted and uncontrolled aquaculture, clearance of mangroves and destructive fishing practices, such as the use of dynamite and chemicals, are also causing the physical destruction of important habitats. The introduction of alien species can also have serious effects upon marine ecosystem integrity. Spawning grounds, nurseries and feeding grounds of major living marine resources of crucial importance to world food security are being destroyed. This destruction of habitat exacerbates overharvesting of these living marine resources leading to a growing risk that they are being depleted. This is an increasing threat to the food security of coastal populations, in particular in developing countries.

150. The damming of river systems can result in upstream sedimentation, possible changes in estuarine conditions and interference with fish migration. These adversely affect biological diversity and biological productivity. The practice of saltwinning from saltpan construction in coastal areas can also affect salt concentration levels and biological diversity.

2. Objective/proposed target

151. The objective/proposed target is to:

(a) Safeguard the ecosystem function, maintain the integrity and biological diversity of habitats which are of major socio-economic and ecological interest through integrated management of coastal areas;

(b) Where practicable, restore marine and coastal habitats that have been adversely affected by anthropogenic activities.

3. Activities

(a) National actions, policies and measures

152. Actions, policies and measures of States within their capacities should include the formulation, adoption and implementation of programmes for integrated coastal area management, in accordance with Agenda 21, chapter 17, programme area A. These programmes should include, where appropriate:

(a) The identification of habitats of major socio-economic and ecological significance such as spawning grounds, breeding grounds and nurseries of marine living resources which guarantee food security of large coastal populations;

(b) Conducting assessments that involve the use of community-based participatory approaches, to identify land-based activities that threaten physical degradation or destruction of key habitats;

(c) Encouraging economic and social sectors whose activities may lead to physical degradation or destruction of such habitats to adjust those activities so as to reduce or avoid such effects;

(d) The establishment of marine protected areas in coastal areas to maintain the integrity and biological diversity of their habitats;

(e) Restoration of coastal habitats that have suffered decline or loss as a result of human activities.

(b) Regional actions

153. Regional actions should include formulation and adoption of regional-scale approaches to safeguarding critical habitats such as:

(a) Regional systems of marine and coastal protected areas;

(b) Regional programmes of action and protocols on important species and habitats;

(c) Regional approaches to management of important living marine resources, in particular where the spatial scales of their life-stages transcend national boundaries;

(d) Cooperation between regional marine environment programmes and regional fisheries organizations.

(c) International actions

154. International actions include:

(a) The coordination and formulation of guidelines for the preservation of habitat and normal ecosystem functions in coastal areas, particularly in the context of integrated coastal area management. Such activities should take advantage of and be consistent with existing international mechanisms and agreements;

(b) Participation in a clearing-house for providing information on technologies and experiences regarding coastal-zone-management methodology;

(c) Cooperation with countries in need of assistance, through financial, scientific and technical support, in the development and implementation of environmentally sound land-use techniques, planning and practices to prevent and control the negative effects of physical alterations.

Annex

ILLUSTRATIVE LIST OF FUNDING SOURCES AND MECHANISMS

The possible funding sources and mechanisms that may be appropriate and which will need to be considered include:

A. Financing sources internal to the State concerned

1. User charges: User charges ensure that those who benefit immediately and directly from the provision of a service contribute towards the costs of that service;

2. Charging the polluter: Those who impose burdens on the aquatic environment (for example, by discharging waste water) can be required to contribute to the costs of their actions;

3. Local taxes: A municipality, or other organized community, that benefits from improvements in water management, can contribute to the costs of those improvements from local taxes, either by a specific tax for that purpose or by a contribution from general tax revenues;

4. National taxes: Where the costs of some local improvement in water management would bear unreasonably on the local community concerned, or where the improvement benefits the public at large, the national budget can contribute part or all of the cost;

5. Private-sector borrowing: Where a project requires substantial initial investments, the public authority responsible can borrow the capital cost from national private-sector financial institutions, with the resulting loan-charges being serviced from any of the foregoing sources;

6. National revolving funds: A fund can be set up, financed from either any of the foregoing sources, from external financing sources or mechanisms or from a mix of any of these, from which advances can be made to finance project costs. Subsequent repayments from the projects are then used to refill the fund to permit new advances;

7. Private-sector participation: Private-sector firms can take responsibility for all, or parts, of the operation of a project instead of simply providing funds; this may involve:

- (a) Improving and/or operating the assets necessary for a service ("the service assets"), which remain in public ownership;
- (b) Providing and operating the service assets on their own account for a specific period, after which the assets revert to public ownership;
- (c) Taking over ownership of the service assets and then improving and operating them on their own account, either for a specific period or permanently;

/...

B. External financing sources and mechanisms

8. International private-sector institutions: Loans may be taken out from international private-sector financial institutions in the same way as from equivalent national institutions; in the same way, private-sector participation can equally be organized through international companies;

9. Export credit agencies: These are a source of shorter-term project financing, especially for specialized equipment;

10. Grant and concessionary assistance: Part of the costs of creating service assets or the necessary management infrastructure may be met by grants or loans, including loans of concessionary terms, from donor States or multilateral aid agencies, associations and programmes. Separate arrangements often exist to finance the acquisition of the "know-how" needed to plan and organize projects. In particular, GEF supports, by means of limited grant assistance up to the amount of the agreed incremental cost of global environmental benefits, actions consistent with its operational strategy in four focal areas: climate change, biological diversity, international waters and ozone-layer depletion;

11. Multilateral loans: The World Bank and regional development banks can provide loan finance for larger projects and technical assistance directly, and for smaller projects through financial intermediaries in the borrowing country, normally at rates lower than those obtainable on the commercial market;

12. Multilateral equity funds: Certain projects are more appropriately supported by means of equity capital than by interest-bearing loans. Where equity participation from the private-sector market is not available or not appropriate, certain public-sector financing agencies can provide support of this kind;

13. Debt-for-equity swaps and eco-conversion programmes: Creditors agree to convert the debts owed to them into local funds to be applied for environmentally beneficial expenditure;

14. Foundation grants: Many privately or publicly endowed foundations may use their resources to support innovative approaches to environmental management or the development of human resources;

15. Twinning arrangements: Arrangements between authorities, either central or local, in one country and their counterparts in another, or analogous arrangements between regional seas organizations, have proved to be an important mechanism for the effective and sustained transfer of experience between parties with similar interests and concerns.

**Convention on the Law of the Non-navigational Uses of
International Watercourses**
1997

Adopted by the General Assembly of the United Nations on 21 May 1997.
Not yet in force. See General Assembly resolution 51/229, annex, *Official
Records of the General Assembly, Fifty-first Session, Supplement No. 49
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Convention on the Law of the Non-navigational Uses of International Watercourses
Adopted by the General Assembly of the United Nations on 21 May 1997

The Parties to the present Convention,

Conscious of the importance of international watercourses and the non-navigational uses thereof in many regions of the world,

Having in mind Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Considering that successful codification and progressive development of rules of international law regarding non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Taking into account the problems affecting many international watercourses resulting from, among other things, increasing demands and pollution,

Expressing the conviction that a framework convention will ensure the utilization, development, conservation, management and protection of international watercourses and the promotion of the optimal and sustainable utilization thereof for present and future generations,

Affirming the importance of international cooperation and good-neighbourliness in this field,

Aware of the special situation and needs of developing countries,

Recalling the principles and recommendations adopted by the United Nations Conference on Environment and Development of 1992 in the Rio Declaration and Agenda 21,

Recalling also the existing bilateral and multilateral agreements regarding the non-navigational uses of international watercourses,

Mindful of the valuable contribution of international organizations, both governmental and non-governmental, to the codification and progressive development of international law in this field,

Appreciative of the work carried out by the International Law Commission on the law of the non-navigational uses of international watercourses,

Bearing in mind United Nations General Assembly resolution 49/52 of 9 December 1994,

Have agreed as follows:

PART I.
INTRODUCTION

Article 1
Scope of the present Convention

1. The present Convention applies to uses of international watercourses and of their waters for purposes other than navigation and to measures of protection, preservation and management related to the uses of those watercourses and their waters.

2. The uses of international watercourses for navigation is not within the scope of the present Convention except insofar as other uses affect navigation or are affected by navigation.

Article 2
Use of terms

For the purposes of the present Convention:

(a) “Watercourse” means a system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus;

(b) “International watercourse” means a watercourse, parts of which are situated in different States;

(c) “Watercourse State” means a State Party to the present Convention in whose territory part of an international watercourse is situated, or a Party that is a regional economic integration organization, in the territory of one or more of whose Member States part of an international watercourse is situated;

(d) “Regional economic integration organization” means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

Article 3
Watercourse agreements

1. In the absence of an agreement to the contrary, nothing in the present Convention shall affect the rights or obligations of a watercourse State arising from agreements in force for it on the date on which it became a party to the present Convention.

2. Notwithstanding the provisions of paragraph 1, parties to agreements referred to in paragraph 1 may, where necessary, consider harmonizing such agreements with the basic principles of the present Convention.

3. Watercourse States may enter into one or more agreements, hereinafter referred to as “watercourse agreements”, which apply and adjust the provisions of the present Convention to the characteristics and uses of a particular international watercourse or part thereof.

4. Where a watercourse agreement is concluded between two or more watercourse States, it shall define the waters to which it applies. Such an agreement may be entered into with respect to an entire international watercourse or any part thereof or a particular project, programme or use except insofar as the agreement adversely affects, to a significant extent, the use by one or more other watercourse States of the waters of the watercourse, without their express consent.

5. Where a watercourse State considers that adjustment and application of the provisions of the present Convention is required because of the characteristics and uses of a particular international watercourse, watercourse States shall consult with a view to negotiating in good faith for the purpose of concluding a watercourse agreement or agreements.

6. Where some but not all watercourse States to a particular international watercourse are parties to an agreement, nothing in such agreement shall affect the rights or obligations under the present Convention of watercourse States that are not parties to such an agreement.

Article 4

Parties to watercourse agreements

1. Every watercourse State is entitled to participate in the negotiation of and to become a party to any watercourse agreement that applies to the entire international watercourse, as well as to participate in any relevant consultations.

2. A watercourse State whose use of an international watercourse may be affected to a significant extent by the implementation of a proposed watercourse agreement that applies only to a part of the watercourse or to a particular project, programme or use is entitled to participate in consultations on such an agreement and, where appropriate, in the negotiation thereof in good faith with a view to becoming a party thereto, to the extent that its use is thereby affected.

PART II.

GENERAL PRINCIPLES

Article 5

Equitable and reasonable utilization and participation

1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.

2. Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present Convention.

Article 6
Factors relevant to equitable and reasonable utilization

1. Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including:

- (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character;
- (b) The social and economic needs of the watercourse States concerned;
- (c) The population dependent on the watercourse in each watercourse State;
- (d) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States;
- (e) Existing and potential uses of the watercourse;
- (f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect;
- (g) The availability of alternatives, of comparable value, to a particular planned or existing use.

2. In the application of article 5 or paragraph 1 of this article, watercourse States concerned shall, when the need arises, enter into consultations in a spirit of cooperation.

3. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

Article 7
Obligation not to cause significant harm

1. Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse States.

2. Where significant harm nevertheless is caused to another watercourse State, the States whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard for the provisions of articles 5 and 6, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

Article 8
General obligation to cooperate

1. Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.

2. In determining the manner of such cooperation, watercourse States may consider the establishment of joint mechanisms or commissions, as deemed necessary by them, to facilitate cooperation on relevant measures and procedures in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.

Article 9

Regular exchange of data and information

1. Pursuant to article 8, watercourse States shall on a regular basis exchange readily available data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological and ecological nature and related to the water quality as well as related forecasts.

2. If a watercourse State is requested by another watercourse State to provide data or information that is not readily available, it shall employ its best efforts to comply with the request but may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information.

3. Watercourse States shall employ their best efforts to collect and, where appropriate, to process data and information in a manner which facilitates its utilization by the other watercourse States to which it is communicated.

Article 10

Relationship between different kinds of uses

1. In the absence of agreement or custom to the contrary, no use of an international watercourse enjoys inherent priority over other uses.

2. In the event of a conflict between uses of an international watercourse, it shall be resolved with reference to articles 5 to 7, with special regard being given to the requirements of vital human needs.

PART III.

PLANNED MEASURES

Article 11

Information concerning planned measures

Watercourse States shall exchange information and consult each other and, if necessary, negotiate on the possible effects of planned measures on the condition of an international watercourse.

Article 12
Notification concerning planned measures with
possible adverse effects

Before a watercourse State implements or permits the implementation of planned measures which may have a significant adverse effect upon other watercourse States, it shall provide those States with timely notification thereof. Such notification shall be accompanied by available technical data and information, including the results of any environmental impact assessment, in order to enable the notified States to evaluate the possible effects of the planned measures.

Article 13
Period for reply to notification

Unless otherwise agreed:

- (a) A watercourse State providing a notification under article 12 shall allow the notified States a period of six months within which to study and evaluate the possible effects of the planned measures and to communicate the findings to it;
- (b) This period shall, at the request of a notified State for which the evaluation of the planned measures poses special difficulty, be extended for a period of six months.

Article 14
Obligations of the notifying State during the period for reply

During the period referred to in article 13, the notifying State:

- (a) Shall cooperate with the notified States by providing them, on request, with any additional data and information that is available and necessary for an accurate evaluation; and
- (b) Shall not implement or permit the implementation of the planned measures without the consent of the notified States.

Article 15
Reply to notification

The notified States shall communicate their findings to the notifying State as early as possible within the period applicable pursuant to article 13. If a notified State finds that implementation of the planned measures would be inconsistent with the provisions of articles 5 or 7, it shall attach to its finding a documented explanation setting forth the reasons for the finding.

Article 16
Absence of reply to notification

1.If, within the period applicable pursuant to article 13, the notifying State receives no communication under article 15, it may, subject to its obligations under articles 5 and 7, proceed with

the implementation of the planned measures, in accordance with the notification and any other data and information provided to the notified States.

2. Any claim to compensation by a notified State which has failed to reply within the period applicable pursuant to article 13 may be offset by the costs incurred by the notifying State for action undertaken after the expiration of the time for a reply which would not have been undertaken if the notified State had objected within that period.

Article 17

Consultations and negotiations concerning planned measures

1. If a communication is made under article 15 that implementation of the planned measures would be inconsistent with the provisions of article 5 or 7, the notifying State and the State making the communication shall enter into consultations and, if necessary, negotiations with a view to arriving at an equitable resolution of the situation.

2. The consultations and negotiations shall be conducted on the basis that each State must in good faith pay reasonable regard to the rights and legitimate interests of the other State.

3. During the course of the consultations and negotiations, the notifying State shall, if so requested by the notified State at the time it makes the communication, refrain from implementing or permitting the implementation of the planned measures for a period of six months unless otherwise agreed.

Article 18

Procedures in the absence of notification

1. If a watercourse State has reasonable grounds to believe that another watercourse State is planning measures that may have a significant adverse effect upon it, the former State may request the latter to apply the provisions of article 12. The request shall be accompanied by a documented explanation setting forth its grounds.

2. In the event that the State planning the measures nevertheless finds that it is not under an obligation to provide a notification under article 12, it shall so inform the other State, providing a documented explanation setting forth the reasons for such finding. If this finding does not satisfy the other State, the two States shall, at the request of that other State, promptly enter into consultations and negotiations in the manner indicated in paragraphs 1 and 2 of article 17.

3. During the course of the consultations and negotiations, the State planning the measures shall, if so requested by the other State at the time it requests the initiation of consultations and negotiations, refrain from implementing or permitting the implementation of those measures for a period of six months unless otherwise agreed.

Article 19
Urgent implementation of planned measures

1. In the event that the implementation of planned measures is of the utmost urgency in order to protect public health, public safety or other equally important interests, the State planning the measures may, subject to articles 5 and 7, immediately proceed to implementation, notwithstanding the provisions of article 14 and paragraph 3 of article 17.

2. In such case, a formal declaration of the urgency of the measures shall be communicated without delay to the other watercourse States referred to in article 12 together with the relevant data and information.

3. The State planning the measures shall, at the request of any of the States referred to in paragraph 2, promptly enter into consultations and negotiations with it in the manner indicated in paragraphs 1 and 2 of article 17.

PART IV.
PROTECTION, PRESERVATION AND MANAGEMENT

Article 20
Protection and preservation of ecosystems

Watercourse States shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses.

Article 21
Prevention, reduction and control of pollution

1. For the purpose of this article, “pollution of an international watercourse” means any detrimental alteration in the composition or quality of the waters of an international watercourse which results directly or indirectly from human conduct.

2. Watercourse States shall, individually and, where appropriate, jointly, prevent, reduce and control the pollution of an international watercourse that may cause significant harm to other watercourse States or to their environment, including harm to human health or safety, to the use of the waters for any beneficial purpose or to the living resources of the watercourse. Watercourse States shall take steps to harmonize their policies in this connection.

3. Watercourse States shall, at the request of any of them, consult with a view to arriving at mutually agreeable measures and methods to prevent, reduce and control pollution of an international watercourse, such as:

- (a) Setting joint water quality objectives and criteria;
- (b) Establishing techniques and practices to address pollution from point and non-point sources;

(c) Establishing lists of substances the introduction of which into the waters of an international watercourse is to be prohibited, limited, investigated or monitored.

Article 22
Introduction of alien or new species

Watercourse States shall take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in significant harm to other watercourse States.

Article 23
Protection and preservation of the marine environment

Watercourse States shall, individually and, where appropriate, in cooperation with other States, take all measures with respect to an international watercourse that are necessary to protect and preserve the marine environment, including estuaries, taking into account generally accepted international rules and standards.

Article 24
Management

1. Watercourse States shall, at the request of any of them, enter into consultations concerning the management of an international watercourse, which may include the establishment of a joint management mechanism.

2. For the purposes of this article, “management” refers, in particular, to:

(a) Planning the sustainable development of an international watercourse and providing for the implementation of any plans adopted; and

(b) Otherwise promoting the rational and optimal utilization, protection and control of the watercourse.

Article 25
Regulation

1. Watercourse States shall cooperate, where appropriate, to respond to needs or opportunities for regulation of the flow of the waters of an international watercourse.

2. Unless otherwise agreed, watercourse States shall participate on an equitable basis in the construction and maintenance or defrayal of the costs of such regulation works as they may have agreed to undertake.

3. For the purposes of this article, “regulation” means the use of hydraulic works or any other continuing measure to alter, vary or otherwise control the flow of the waters of an international watercourse.

Article 26
Installations

1. Watercourse States shall, within their respective territories, employ their best efforts to maintain and protect installations, facilities and other works related to an international watercourse.

2. Watercourse States shall, at the request of any of them which has reasonable grounds to believe that it may suffer significant adverse effects, enter into consultations with regard to:

(a) The safe operation and maintenance of installations, facilities or other works related to an international watercourse; and

(b) The protection of installations, facilities or other works from wilful or negligent acts or the forces of nature.

PART V.
HARMFUL CONDITIONS AND EMERGENCY SITUATIONS

Article 27
Prevention and mitigation of harmful conditions

Watercourse States shall, individually and, where appropriate, jointly, take all appropriate measures to prevent or mitigate conditions related to an international watercourse that may be harmful to other watercourse States, whether resulting from natural causes or human conduct, such as flood or ice conditions, water-borne diseases, siltation, erosion, salt-water intrusion, drought or desertification.

Article 28
Emergency situations

1. For the purposes of this article, “emergency” means a situation that causes, or poses an imminent threat of causing, serious harm to watercourse States or other States and that results suddenly from natural causes, such as floods, the breaking up of ice, landslides or earthquakes, or from human conduct, such as industrial accidents.

2. A watercourse State shall, without delay and by the most expeditious means available, notify other potentially affected States and competent international organizations of any emergency originating within its territory.

3. A watercourse State within whose territory an emergency originates shall, in cooperation with potentially affected States and, where appropriate, competent international organizations, immediately take all practicable measures necessitated by the circumstances to prevent, mitigate and eliminate harmful effects of the emergency.

4. When necessary, watercourse States shall jointly develop contingency plans for responding to emergencies, in cooperation, where appropriate, with other potentially affected States and competent international organizations.

PART VI.
MISCELLANEOUS PROVISIONS

Article 29
International watercourses and installations
in time of armed conflict

International watercourses and related installations, facilities and other works shall enjoy the protection accorded by the principles and rules of international law applicable in international and non-international armed conflict and shall not be used in violation of those principles and rules.

Article 30
Indirect procedures

In cases where there are serious obstacles to direct contacts between watercourse States, the States concerned shall fulfil their obligations of cooperation provided for in the present Convention, including exchange of data and information, notification, communication, consultations and negotiations, through any indirect procedure accepted by them.

Article 31
Data and information vital to national defence or security

Nothing in the present Convention obliges a watercourse State to provide data or information vital to its national defence or security. Nevertheless, that State shall cooperate in good faith with the other watercourse States with a view to providing as much information as possible under the circumstances.

Article 32
Non-discrimination

Unless the watercourse States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who have suffered or are under a serious threat of suffering significant transboundary harm as a result of activities related to an international watercourse, a watercourse State shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory.

Article 33
Settlement of disputes

1. In the event of a dispute between two or more parties concerning the interpretation or application of the present Convention, the parties concerned shall, in the absence of an applicable

agreement between them, seek a settlement of the dispute by peaceful means in accordance with the following provisions.

2.If the parties concerned cannot reach agreement by negotiation requested by one of them, they may jointly seek the good offices of, or request mediation or conciliation by, a third party, or make use, as appropriate, of any joint watercourse institutions that may have been established by them or agree to submit the dispute to arbitration or to the International Court of Justice.

3.Subject to the operation of paragraph 10, if after six months from the time of the request for negotiations referred to in paragraph 2, the parties concerned have not been able to settle their dispute through negotiation or any other means referred to in paragraph 2, the dispute shall be submitted, at the request of any of the parties to the dispute, to impartial fact-finding in accordance with paragraphs 4 to 9, unless the parties otherwise agree.

4.A Fact-finding Commission shall be established, composed of one member nominated by each party concerned and in addition a member not having the nationality of any of the parties concerned chosen by the nominated members who shall serve as Chairman.

5.If the members nominated by the parties are unable to agree on a Chairman within three months of the request for the establishment of the Commission, any party concerned may request the Secretary-General of the United Nations to appoint the Chairman who shall not have the nationality of any of the parties to the dispute or of any riparian State of the watercourse concerned. If one of the parties fails to nominate a member within three months of the initial request pursuant to paragraph 3, any other party concerned may request the Secretary-General of the United Nations to appoint a person who shall not have the nationality of any of the parties to the dispute or of any riparian State of the watercourse concerned. The person so appointed shall constitute a single-member Commission.

6.The Commission shall determine its own procedure.

7.The parties concerned have the obligation to provide the Commission with such information as it may require and, on request, to permit the Commission to have access to their respective territory and to inspect any facilities, plant, equipment, construction or natural feature relevant for the purpose of its inquiry.

8.The Commission shall adopt its report by a majority vote, unless it is a single-member Commission, and shall submit that report to the parties concerned setting forth its findings and the reasons therefor and such recommendations as it deems appropriate for an equitable solution of the dispute, which the parties concerned shall consider in good faith.

9.The expenses of the Commission shall be borne equally by the parties concerned.

10. When ratifying, accepting, approving or acceding to the present Convention, or at any time thereafter, a party which is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, in respect of any dispute not resolved in accordance with paragraph 2, it recognizes as compulsory ipso facto, and without special agreement in relation to any party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice; and/or

(b) Arbitration by an arbitral tribunal established and operating, unless the parties to the dispute otherwise agreed, in accordance with the procedure laid down in the annex to the present Convention.

A party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with subparagraph (b).

PART VII.
FINAL CLAUSES

Article 34
Signature

The present Convention shall be open for signature by all States and by regional economic integration organizations from 21 May 1997 until 20 May 2000 at United Nations Headquarters in New York.

Article 35
Ratification, acceptance, approval or accession

1. The present Convention is subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

2. Any regional economic integration organization which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Secretary-General of the United Nations of any substantial modification in the extent of their competence.

Article 36
Entry into force

1. The present Convention shall enter into force on the ninetieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the thirty-fifth instrument of ratification,

acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States.

Article 37
Authentic texts

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE at New York, this twenty-first day of May one thousand nine hundred and ninety-seven.

ANNEX

ARBITRATION

Article 1

Unless the parties to the dispute otherwise agree, the arbitration pursuant to article 33 of the Convention shall take place in accordance with articles 2 to 14 of the present annex.

Article 2

The claimant party shall notify the respondent party that it is referring a dispute to arbitration pursuant to article 33 of the Convention. The notification shall state the subject matter of arbitration and include, in particular, the articles of the Convention, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute, the arbitral tribunal shall determine the subject matter.

Article 3

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the Chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute or of any riparian State of the watercourse concerned, nor have his or her usual place of residence in the territory of one of these parties or such riparian State, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 4

1. If the Chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall, at the request of a party, designate the Chairman within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the President of the International Court of Justice, who shall make the designation within a further two-month period.

Article 5

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention and international law.

Article 6

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 7

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

Article 8

1. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

- (a) Provide it with all relevant documents, information and facilities; and
- (b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

2. The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

1. The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time limit for a period which should not exceed five more months.

2. The final decision of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

3. The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

4. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

International Convention for the Safety of Life at Sea (SOLAS), 1974

Adoption: 1 November 1974

Entry into force: 25 May 1980

Introduction and history

Amendment procedure

Technical provisions

Chapter I - General Provisions

Chapter II-1 - Construction - Subdivision and stability, machinery and electrical installations

Chapter II-2 - Fire protection, fire detection and fire extinction

Chapter III - Life-saving appliances and arrangements

Chapter IV - Radiocommunications

Chapter V - Safety of navigation

Chapter VI - Carriage of Cargoes

Chapter VII - Carriage of dangerous goods

Chapter VIII - Nuclear ships

Chapter IX - Management for the Safe Operation of Ships

Chapter X - Safety measures for high-speed craft

Chapter XI - Special measures to enhance maritime safety

Chapter XII - Additional safety measures for bulk carriers Amendments:

The Protocol of 1978 - Tanker safety and pollution prevention

The 1981 amendments -chapter II-1 and II-2 updated

The 1983 amendments -revised chapter III

The 1988 (April) amendments - post Herald of Free Enterprise

The 1988 (October) amendments - stability of passenger ships

The 1988 Protocol - HSSC

The 1988 amendments - GMDSS

The 1989 amendments - chapters II-1 and II-2

The 1990 amendments - subdivision and stability: probabilistic approach

The 1991 amendments - revised chapter VI

The April 1992 amendments - measures for existing ro-ro passenger ships

The December 1992 amendments -fire safety of new passenger ships

The May 1994 amendments (Conference) - Accelerated amendment procedure

New Chapter IX - Management for the Safe Operation of Ships

New Chapter X - Safety measures for high-speed craft

New Chapter XI - Special measures to enhance maritime safety

The May 1994 amendments (MSC) - emergency towing, ship reporting systems

The December 1994 amendments - cargo code made mandatory

The May 1995 amendments - ships routing systems made mandatory

The November 1995 amendments (Conference) - ro-ro safety post-Estonia

The June 1996 amendments - revised chapter III

The December 1996 amendments -new Fire Test Procedures Code

The June 1997 amendments - Vessel Traffic Services regulation

The November 1997 amendments (Conference) - New chapter XII bulk carrier safety

The May 1998 amendments - amendments to chapters II-1, IV, VI

The May 1999 amendments - INF Code made mandatory

The May 2000 amendment - helicopter landing area

The December 2000 amendments - VDRs, AIS made mandatory in revised chapter V, revised

chapter II-1

The June 2001 amendments - ch VII, ch IX

The May 2002 amendments - IMDG Code made mandatory

The December 2002 amendments (Conference) - measures to enhance maritime security

The December 2002 amendments - bulk carrier new regulations

Introduction and history

The SOLAS Convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914, in response to the **Titanic** disaster, the second in 1929, the third in 1948 and the fourth in 1960.

The **1960** Convention - which was adopted on 17 June 1960 and entered into force on 26 May 1965 - was the first major task for IMO after the Organization's creation and it represented a considerable step forward in modernizing regulations and in keeping pace with technical developments in the shipping industry.

The intention was to keep the Convention up to date by periodic amendments but in practice the amendments procedure incorporated proved to be very slow. It became clear that it would be impossible to secure the entry into force of amendments within a reasonable period of time.

As a result, a completely new Convention was adopted in 1974 which included not only the amendments agreed up until that date but a new amendment procedure - the tacit acceptance procedure - designed to ensure that changes could be made within a specified (and acceptably short) period of time.

Instead of requiring that an amendment shall enter into force after being accepted by, for example, two thirds of the Parties, the tacit acceptance procedure provides that an amendment shall enter into force on a specified date unless, before that date, objections to the amendment are received from an agreed number of Parties.

As a result the 1974 Convention has been updated and amended on numerous occasions. The Convention in force today is sometimes referred to as SOLAS, 1974, as amended.

Amendment procedure

Article VIII of the SOLAS 1974 Convention states that amendments can be made either:

After consideration within IMO

Amendments proposed by a Contracting Government are circulated at least six months before consideration by the Maritime Safety Committee (MSC) - which may refer discussions to one or more IMO Sub-Committees - and amendments are adopted by a two-thirds majority of Contracting Governments present and voting in the MSC. Contracting Governments of SOLAS, whether or not Members of IMO are entitled to participate in the consideration of amendments in the so-called "expanded MSC".

Amendments by a Conference

A Conference of Contracting Governments is called when a Contracting Government requests the holding of a Conference and at least one-third of Contracting Governments agree

to hold the Conference. Amendments are adopted by a two-thirds majority of Contracting Governments present and voting.

In the case of both a Conference and the expanded MSC, amendments (other than to Chapter I) are deemed to have been accepted at the end of a set period of time following communication of the adopted amendments to Contracting Governments, unless a specified number of Contracting Governments object. The length of time from communication of amendments to deemed acceptance is set at two years unless another period of time - which must not be less than one year - is determined by two-thirds of Contracting Governments at the time of adoption.

Amendments to Chapter I are deemed accepted after positive acceptance by two-thirds of Contracting Governments.

Amendments enter into force six months after their deemed acceptance.

The minimum length of time from circulation of proposed amendments through entry into force is 24 months - circulation: six months, adoption to deemed acceptance date: 12 months minimum; deemed acceptance to entry into force: six months.

However, a resolution adopted in 1994 makes provision for an accelerated amendment procedure to be used in exceptional circumstances - allowing for the length of time from communication of amendments to deemed acceptance to be cut to six months in exceptional circumstances and when this is decided by a Conference. In practice to date, the expanded MSC has adopted most amendments to SOLAS, while Conferences have been held on several occasions - notably to adopt whole new Chapters to SOLAS or to adopt amendments proposed in response to a specific incident.

Technical provisions

The main objective of the SOLAS Convention is to specify minimum standards for the construction, equipment and operation of ships, compatible with their safety. Flag States are responsible for ensuring that ships under their flag comply with its requirements, and a number of certificates are prescribed in the Convention as proof that this has been done. Control provisions also allow Contracting Governments to inspect ships of other Contracting States if there are clear grounds for believing that the ship and its equipment do not substantially comply with the requirements of the Convention - this procedure is known as port State control. The current SOLAS Convention includes Articles setting out general obligations, amendment procedure and so on, followed by an Annex divided into 12 Chapters.

Chapter I - General Provisions

Includes regulations concerning the survey of the various types of ships and the issuing of documents signifying that the ship meets the requirements of the Convention. The Chapter also includes provisions for the control of ships in ports of other Contracting Governments.

Chapter II-1 - Construction - Subdivision and stability, machinery and electrical installations

The subdivision of passenger ships into watertight compartments must be such that after assumed damage to the ship's hull the vessel will remain afloat and stable. Requirements for

watertight integrity and bilge pumping arrangements for passenger ships are also laid down as well as stability requirements for both passenger and cargo ships.

The degree of subdivision - measured by the maximum permissible distance between two adjacent bulkheads - varies with ship's length and the service in which it is engaged. The highest degree of subdivision applies to passenger ships.

Requirements covering machinery and electrical installations are designed to ensure that services which are essential for the safety of the ship, passengers and crew are maintained under various emergency conditions. The steering gear requirements of this Chapter are particularly important.

Chapter II-2 - Fire protection, fire detection and fire extinction

Includes detailed fire safety provisions for all ships and specific measures for passenger ships, cargo ships and tankers.

They include the following principles: division of the ship into main and vertical zones by thermal and structural boundaries; separation of accommodation spaces from the remainder of the ship by thermal and structural boundaries; restricted use of combustible materials; detection of any fire in the zone of origin; containment and extinction of any fire in the space of origin; protection of the means of escape or of access for fire-fighting purposes; ready availability of fire-extinguishing appliances; minimization of the possibility of ignition of flammable cargo vapour.

A new revised chapter II-2 was adopted in December 2000, entering into force on 1 July 2002.



Chapter III - Life-saving appliances and arrangements

A revised Chapter was adopted in 1996 and entered into force on 1 July 1998. The revisions took into account changes in technology since the Chapter was last revised in 1983. Under the 1996 revision, specific technical requirements were moved to a new International Life-Saving Appliance (LSA) Code, made mandatory under Regulation 34, which states that all life-saving appliances and arrangements shall comply with the applicable requirements of the LSA Code.

The Chapter entered into force on 1 July 1998 and applies to all ships built on or after 1 July 1998, with some new amendments to the previous Chapter also applying to ships built before that date.

The text of the 1996 Chapter takes into account technological changes, such as the development of marine evacuation systems: these systems involve the use of slides, similar to those installed on aircraft. The 1996 revision of Chapter III also reflects public concern over safety issues, raised by a series of major accidents in the 1980s and 1990s. Many of the passenger ship regulations have been made applicable to existing ships, and extra regulations were introduced specifically for ro-ro passenger ships.



Chapter IV - Radiocommunications

The Chapter was completely revised in 1988 to incorporate amendments to introduce the Global Maritime Distress and Safety System (GMDSS).

The amendments entered into force on 1 February 1992 with a phase-in period to 1 February 1999. By that date the Morse Code was phased out and all passenger ships and all cargo ships of 300 gross tonnage and upwards on international voyages are now required to carry equipment designed to improve the chances of rescue following an accident, including satellite emergency position indicating radio beacons (EPIRBs) and search and rescue transponders (SARTs) for the location of the ship or survival craft. Chapter IV of SOLAS was previously titled Radiotelegraphy and radiotelephony, reflecting the forms of radio communication available prior to the introduction of satellites.

Regulations in Chapter IV cover undertakings by contracting governments to provide radiocommunication services as well as ship requirements for carriage of radiocommunications equipment. The Chapter is closely linked to the Radio Regulations of the International Telecommunication Union.



Chapter V - Safety of navigation

Chapter V identifies certain navigation safety services which should be provided by Contracting Governments and sets forth provisions of an operational nature applicable in general to all ships on all voyages. This is in contrast to the Convention as a whole, which only applies to certain classes of ship engaged on international voyages.

The subjects covered include the maintenance of meteorological services for ships; the ice patrol service; routing of ships; and the maintenance of search and rescue services.

This Chapter also includes a general obligation for masters to proceed to the assistance of those in distress and for Contracting Governments to ensure that all ships shall be sufficiently and efficiently manned from a safety point of view.

A new revised chapter V was adopted in December 2000, entering into force on 1 July 2002. The new chapter makes mandatory the carriage of voyage data recorders (VDRs) and automatic ship identification systems (AIS) for certain ships.



Chapter VI - Carriage of Cargoes

The Chapter covers all types of cargo (except liquids and gases in bulk) "which, owing to their particular hazards to ships or persons on board, may require special precautions".

The regulations include requirements for stowage and securing of cargo or cargo units (such as containers).

Before 1991, this Chapter only covered the carriage of grain - which due to its inherent capability to shift can have disastrous effects on a ship's stability if not stowed, trimmed and secured properly. The current Chapter requires cargo ships carrying grain to comply with the IMO International Grain Code.

Chapter VII - Carriage of dangerous goods

The regulations are contained in three parts:

Part A - Carriage of dangerous goods in packaged form or in solid form or in bulk - includes provisions for the classification, packing, marking, labelling and placarding, documentation and stowage of dangerous goods. Contracting Governments are required to issue instructions at the national level and the Chapter refers to International Maritime Dangerous Goods (IMDG) Code, developed by IMO, which is constantly updated to accommodate new dangerous goods and to supplement or revise existing provisions.

Part B covers Construction and equipment of ships carrying dangerous liquid chemicals in bulk and requires chemical tankers built after 1 July 1986 to comply with the International Bulk Chemical Code (IBC Code).

Part C covers Construction and equipment of ships carrying liquefied gases in bulk and gas carriers constructed after 1 July 1986 to comply with the requirements of the International Gas Carrier Code (IGC Code).

Part D includes special requirements for the carriage of packaged irradiated nuclear fuel, plutonium and high-level radioactive wastes on board ships and requires ships carrying such products to comply with the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code).

From 1 January 2004, the chapter will require carriage of dangerous goods to be in compliance with the relevant provisions of the International Maritime Dangerous Goods Code (IMDG Code). This is due to amendments adopted by IMO in 2002, which are expected to enter into force on 1 January 2004.

The IMDG Code was first adopted by IMO in 1965 and has been kept up to date by regular amendments, including those needed to keep it in line with United Nations Recommendations on the Transport of Dangerous Goods which sets the basic requirements for all the transport modes

Chapter VIII - Nuclear ships

Gives basic requirements for nuclear-powered ships and is particularly concerned with radiation hazards. It refers to detailed and comprehensive Code of Safety for Nuclear Merchant Ships which was adopted by the IMO Assembly in 1981.

Chapter IX - Management for the Safe Operation of Ships

The Chapter makes mandatory the International Safety Management (ISM) Code, which requires a safety management system to be established by the shipowner or any person who has assumed responsibility for the ship (the "Company").

The Chapter was adopted in May 1994 and entered into force on 1 July 1998.

Chapter X - Safety measures for high-speed craft

The Chapter makes mandatory the International Code of Safety for High-Speed Craft (HSC

Code), which applies to high-speed craft built on or after 1 January 1996. The Chapter was adopted in May 1994 and entered into force on 1 January 1996.

A new HSC Code was adopted in December 2000 and it applies to ships built on or after 1 July 2002.

Chapter XI - Special measures to enhance maritime safety

The Chapter was adopted in May 1994 and entered into force on 1 January 1996. The Chapter clarifies requirements relating to authorization of recognized organizations (responsible for carrying out surveys and inspections on Administrations' behalfes); enhanced surveys; ship identification number scheme; and port State control on operational requirements.

Chapter XII - Additional safety measures for bulk carriers

The Chapter was adopted in November 1997 and entered into force on 1 July 1999. It includes structural requirements for new bulk carriers over 150 metres in length built after 1 July 1999 carrying cargoes with a density of 1,000 kg/m³ and above and also includes specific structural requirements for existing bulk carriers carrying cargoes with a density of 1,780 kg/m³ and above - these include cargoes such as iron ore, pig iron, steel, bauxite and cement. Cargoes with a density above 1,000 kg/m³ but below 1,780 kg/m³ include grains, such as wheat and rice, and timber.

The Protocol of 1978

Adoption: 17 February 1978

Entry into force: 1 May 1981

The 1978 Protocol was adopted at the International Conference on Tanker Safety and Pollution Prevention, which was convened in response to a spate of tanker accidents in 1976-1977.

The conference adopted measures affecting tanker design and operation, which were incorporated into both the SOLAS Protocol of 1978 as well as the Protocol of 1978 relating to the 1973 International Convention for the Prevention of Pollution from Ships (1978 MARPOL Protocol).

The 1978 SOLAS Protocol made a number of important changes to Chapter I, including the introduction of unscheduled inspections and/or mandatory annual surveys and the strengthening of port State control requirements. Chapter II-1, Chapter II-2 and Chapter V were also improved.

The main amendments included the following:

New crude oil carriers and product carriers of 20,000 dwt and above are required to be fitted with an inert gas system.

An inert gas system became mandatory for existing crude oil carriers of 70,000 dwt and above by 1 May 1983, and by 1 May 1985 for ships of 20,000-70,000 dwt.

In the case of crude oil carriers of 20-40,000 dwt there is provision for exemption by flag States where it is considered unreasonable or impracticable to fit an inert gas system and high-capacity fixed washing machines are not used. But an inert gas system is always

required when crude oil washing is operated.

An inert gas system was required on existing product carriers from 1 May 1983 and by 1 May 1985 for ships of 40-70,000 dwt and down to 20,000 dwt which are fitted with high capacity washing machines.

In addition to requiring that all ships of 1,600 grt and above shall be fitted with radar, the Protocol requires that all ships of 10,000 grt and above have two radars, each capable of being operated independently.

All tankers of 10,000 grt and above shall have two remote steering gear control systems, each operable separately from the navigating bridge.

The main steering gear of new tankers of 10,000 grt and above shall comprise two or more identical power units, and shall be capable of operating the rudder with one or more power units.

The 1981 amendments

Adoption: 20 November 1981

Entry into force: 1 September 1984

Chapters II-1 and II-2 were re-written and updated.

In Chapter II-1, the provisions of resolution A.325(IX) Recommendation concerning regulations for machinery and electrical installations in passenger and cargo ships (adopted in November 1975) were incorporated and made mandatory. Changes to regulations 29 and 30 on steering gear introduced the concept of duplication of steering gear control systems in tankers. These measures were agreed taking into account concerns following the 1978 Amoco Cadiz disaster and relevant provisions in the 1978 SOLAS Protocol.

Chapter II-2 was re-arranged to take into account strengthened fire safety requirements for cargo ships and passenger ships.

The revised Chapter II-2 incorporated the requirements of resolution A.327(IX) Recommendation concerning fire safety requirements for cargo ships, which includes 21 regulations based on the principles of: separation of accommodation spaces from the remainder of the ship by thermal and structural boundaries; protection of means of escape; early detection, containment or extinction of any fire; and restricted use of combustible materials. Other amendments to Chapter II-2 related to provisions for halogenated hydrocarbon extinguishing systems, special requirements for ships carrying dangerous goods, and a new regulation 62 on inert gas systems.

Some important changes were also made to Chapter V, including the addition of new requirements concerning the carriage of shipborne navigational equipment, covering such matters as gyro and magnetic compasses; the mandatory carriage of two radars and of automatic radar plotting aids in ships of 10,000 grt and above; echo-sounders; devices to indicate speed and distance; rudder angle indicators; propeller revolution indicators; rate of turn indicators; radio-direction finding apparatus; and equipment for homing on the radiotelephone distress frequency.

In addition, a few minor changes were made to Chapter III; seven regulations in Chapter IV were replaced, amended or added and a number of small changes were made to Chapter VII.

The 1983 amendments

Adoption: 17 June 1983

Entry into force: 1 July 1986

The most extensive changes involved Chapter III, which was completely rewritten. The Chapter in the 1974 Convention differed little from the texts which appeared in the 1960 and 1948 SOLAS Conventions and the amendments were designed not only to take into account the many technical advances which had taken place since then but also to expedite the evaluation and introduction of further improvements.

There were also a few minor changes to Chapter II-1 and some further changes to Chapter II-2 (including improvements to the 1981 amendments) designed particularly to increase the safety of bulk carriers and passenger ships. Some small changes were made to Chapter IV.

Amendments to Chapter VII extended its application to chemical tankers and liquefied gas carriers by making reference to two new Codes, the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code). Both apply to ships built on or after 1 July 1986.

The 1988 (April) amendments

Adoption: 21 April 1988

Entry into force: 22 October 1989

In March 1987 the car ferry **Herald of Free Enterprise** capsized shortly after leaving Zeebrugge in Belgium and sank with the loss of 193 lives. The United Kingdom proposed a series of measures designed to prevent a recurrence, the first package of which was adopted in April 1988.

They included new regulations 23-2 and 42-1 of Chapter II-1 intended to improve monitoring of doors and cargo areas and to improve emergency lighting. Because of the urgency, the Maritime Safety Committee agreed the amendments should come into force only 18 months after their adoption, using the "tacit acceptance" procedure.

The 1988 (October) amendments

Adoption: 28 October 1988

Entry into force: 29 April 1990

Some of these amendments also resulted from the **Herald of Free Enterprise** disaster and included details of how stability of passenger ships in a damaged condition should be determined and a requirement for all cargo loading doors to be locked before a ship leaves the berth.

The amendments also made it compulsory for passenger ships to have a lightweight survey at least every five years to ensure their stability has not been adversely affected by the accumulation of extra weight or any alterations to the superstructure.

Other amendments concerning the stability of passenger ships in the damaged condition were also adopted. These regulations had been in preparation before the Herald of Free Enterprise incident and their adoption was brought forward.

The 1988 Protocol (HSSC)

Adoption: 11 November 1988

Entry into force: 3 February 2000

The Protocol introduces a new harmonized system of surveys and certification (HSSC) to harmonize with two other Conventions, Load Lines and MARPOL 73/78. The aim is to alleviate problems caused by the fact that as requirements in the three instruments vary, ships may be obliged to go into dry-dock for a survey required by one convention shortly after being surveyed in connection with another.

By enabling the required surveys to be carried out at the same time, the system is intended to reduce costs for shipowners and administrations alike.

The 1988 (GMDSS) amendments

Adoption: 11 November 1988

Entry into force: 1 February 1992

IMO had begun work on the Global Maritime Distress and Safety System (GMDSS) in the 1970s and its introduction marked the biggest change to maritime communications since the invention of radio.

The amendments which replaced the existing Chapter IV phased in the introduction of the GMDSS in stages between 1993 and 1 February 1999. The basic concept of the system is that search and rescue authorities ashore, as well as ships in the vicinity, will be rapidly alerted in the event of an emergency.

The GMDSS makes great use of the satellite communications provided by Inmarsat but also uses terrestrial radio.

The equipment required by ships varies according to the sea area in which they operate - ships travelling to the high seas must carry more communications equipment than those which remain within reach of specified shore-based radio facilities. In addition to distress communications, the GMDSS also provides for the dissemination of general maritime safety information (such as navigational and meteorological warnings and urgent information to ships).



The 1989 amendments

Adoption: 11 April 1989

Entry into force: 1 February 1992

The main changes concern Chapter II-1 and II-2 of the Convention and deal with ships' construction and with fire protection, detection and extinction.

In Chapter II-1, one of the most important amendments is designed to reduce the number and size of openings in watertight bulkheads in passenger ships and to ensure that they are closed in the event of an emergency.

In Chapter II-2, improvements were made to regulations concerning fixed gas fire-extinguishing systems, smoke detection systems, arrangements for fuel and other oils, the location and separation of spaces and several other regulations.

The International Gas Carrier Code - which is mandatory under SOLAS - was also amended.



The 1990 amendments

Adoption: May 1990

Entry into force: 1 February 1992

Important changes were made to the way in which the subdivision and stability of dry cargo ships is determined. They apply to ships of 100 metres or more in length built on or after 1 February 1992.

The amendments introduced a new part B-1 of Chapter II-1 containing subdivision and damage stability requirements for cargo ships based upon the so-called "probabilistic" concept of survival, which was originally developed through study of data relating to collisions collected by IMO.

This showed a pattern in accidents which could be used in improving the design of ships: most damage, for example, is sustained in the forward part of ships and it seemed logical, therefore, to improve the standard of subdivision there rather than towards the stern. Because it is based on statistical evidence as to what actually happens when ships collide, the probabilistic concept provides a far more realistic scenario than the earlier "deterministic" method, whose principles regarding the subdivision of passenger ships are theoretical rather than practical in concept.

Amendments were also made to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).



The 1991 amendments

Adoption: 24 May 1991

Entry into force: 1 January 1994

Chapter VI (Carriage of grain) was completely revised to extend it to include other cargoes and it was retitled Carriage of cargoes. The text is shorter, but the Chapter is backed up by two new Codes. The International Grain Code is mandatory while the Code of Safe Practice

for Cargo Stowage and Securing is recommended. The Chapter also refers to the Code of Safe Practice for Ships Carrying Timber Deck Cargoes and the Code of Safe Practice for Solid Bulk Cargoes. In Chapter II-2, fire safety requirements for passenger ships were improved and other changes were made to Chapter III and Chapter V.



The April 1992 amendments

Adoption: 10 April 1992

Entry into force: 1 October 1994

New standards concerning the stability of existing ro-ro passenger ships after damage were included in amendments to Chapter II-1. They were based on measures to improve the damage stability of new ro-ro passenger ships which came into force on 29 April 1990 but were slightly modified. The measures are phased in over an 11-year period beginning 1 October 1994.

A number of other amendments to SOLAS were adopted, including improved fire safety measures for existing passenger ships carrying more than 36 passengers, including mandatory requirements for smoke detection and alarm and sprinkler systems in accommodation and service spaces, stairway enclosures and corridors. Other improvements involved the provision of emergency lighting, general emergency alarm systems and other means of communication.

Some of these measures became applicable for existing ships on 1 October 1994. Those dealing with smoke detection and alarm systems and sprinklers applied from 1 October 1997. Requirements concerning stairways of steel-frame construction, for fire-extinguishing systems in machinery spaces and for fire doors are mandatory from 1 October 2000.

The April 1992 amendments are particularly important because they apply to existing ships. In the past, major changes to SOLAS had been restricted to new ships by so-called "grandfather clauses". The reason for this is that major changes involve expensive modifications to most ships, and there had previously been a reluctance to make such measures retroactive.



The December 1992 amendments

Adoption: 11 December 1992

Entry into force: 1 October 1994

The most important amendments were concerned with the fire safety of new passenger ships. They made it mandatory for new ships (i.e. those built after 1 October 1994) carrying more than 36 passengers to be fitted with automatic sprinklers and a fire detection and alarm system centralized in a continuously-manned remote control station. Controls for the remote closing of fire doors and shutting down of ventilation fans must be located at the same place.

New standards for the fire integrity of bulkheads and decks were introduced and improvements made to standards for corridors and stairways used as a means of escape in case of fire. Emergency lighting which can be used by passengers to identify escape routes is required.

Other amendments affect the fire safety of ships carrying 36 passengers or less and also oil tanker fire safety.

Three Codes were also amended. Amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code) entered into force on 1 July 1994 and affect ships built after that date.

Amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) entered into force on 1 July 1994. The Code is voluntary and applies to existing ships.



The May 1994 amendments (Conference)

Adoption: 24 May 1994

Entry into force: 1 January 1996 (Chapters X, XI) 1 July 1998 (Chapter IX)

The Conference adopted three new SOLAS Chapters as well as a resolution on an accelerated amendment procedure.

Accelerated amendment procedure

The Conference adopted a resolution on an accelerated amendment procedure to be used in exceptional circumstances. It states that a Conference of Contracting Governments can reduce the period after which an amendment to the technical Chapters of the Convention (which excludes the articles and Chapter I) is deemed to have been accepted from 12 months to six months, in exceptional circumstances.

Article VIII of SOLAS deals with the procedures for amending the Convention. The existing text says that proposed amendments have to be circulated to Governments at least six months prior to adoption and cannot enter into force until at least 18 months after adoption. This makes a total of 24 months, from circulation (six months), through adoption, to deemed acceptance date (12 months after adoption), to entry into force (six months after deemed acceptance date).

The resolution adopted by the conference states that the circulation period will remain at six months as will the period between the date on which the amendment is deemed to have been accepted and the date of entry into force. But the period between adoption and deemed acceptance date can be reduced to six months from 12. The total period between circulation of an amendment and its entry into force could thus be reduced from 24 months to 18 - in exceptional circumstances.



Chapter IX: Management for the Safe Operation of Ships

This new Chapter to the Convention was designed to make mandatory the International Safety Management Code, which was adopted by IMO in November 1993 (Assembly resolution A.741(18)).

The amendments introducing the new Chapter IX entered into force under tacit acceptance on 1 July 1998. The Chapter applies to passenger ships and tankers from that date and to cargo

ships and mobile drilling units of 500 gross tonnage and above from 1 July 2002.

The Code establishes safety management objectives which are:

- to provide for safe practices in ship operation and a safe working environment;
- to establish safeguards against all identified risks;
- to continuously improve safety management skills of personnel, including preparing for emergencies.

The Code requires a safety management system (SMS) to be established by "the Company", which is defined as the shipowner or any person, such as the manager or bareboat charterer, who has assumed responsibility for operating the ship.

The company is then required to establish and implement a policy for achieving these objectives. This includes providing the necessary resources and shore-based support. Every company is expected "to designate a person or persons ashore having direct access to the highest level of management".

The procedures required by the ISM Code should be documented and compiled in a Safety Management Manual, a copy of which should be kept on board.



Chapter X: Safety Measures for High Speed Craft

The new Chapter makes mandatory the International Code of Safety for High-Speed Craft, which was adopted by the Maritime Safety Committee (MSC) held concurrently with the Conference.

The Chapter entered into force under tacit acceptance on 1 January 1996 and applies to high-speed craft built on or after that date.



Chapter XI: Special Measures to Enhance Safety:

The new Chapter entered into force under tacit acceptance on 1 January 1996.

Regulation 1 states that organizations entrusted by an Administration with the responsibility for carrying out surveys and inspections shall comply with the guidelines adopted by IMO in resolution A.739(18) in November 1993.

Regulation 2 extends to bulk carriers aged five years and above, the enhanced programme of surveys applicable to tankers under MARPOL 73/78. The enhanced surveys should be carried out during the periodical, annual and intermediate surveys prescribed by the MARPOL and SOLAS Conventions.

The related guidelines on enhanced surveys pay special attention to corrosion. Coatings and tank corrosion prevention systems must be thoroughly checked and measurements must also be carried out to check the thickness of plates.

Regulation 3 provides that all passenger ships of 100 gross tonnage and above and all cargo ships of 300 gross tonnage and above shall be provided with an identification number conforming to the IMO ship identification number scheme, as adopted by resolution A.600(15) in 1987.

Regulation 4 makes it possible for port State control officers inspecting foreign ships to check operational requirements "when there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the safety of ships"

.Reference is made to resolution A.742(18), adopted in November 1993. The resolution acknowledges the need for port States to be able to monitor not only the way in which foreign ships comply with IMO standards but also to be able to assess "the ability of ships' crews in respect of operational requirements relevant to their duties, especially with regard to passenger ships and ships which may present a special hazard"

.The "clear grounds" referred to are defined in the annex to the resolution. They include such factors as operational shortcomings, cargo operations not being conducted properly, the involvement of the ship in incidents caused by operational mistakes, absence of an up-to-date muster list and indications that crew members may not be able to communicate with each other.

Port State control inspections are normally limited to checking certificates and documents. But if certificates are not valid or if there are clear grounds for believing that the condition of the ship or of its equipment, or its crew, does not substantially meet the requirements of a relevant instrument, a more detailed inspection may be carried out.

The operations and procedures selected for special attention include ascertaining that crew members are aware of their duties as indicated in the muster list; communications; fire and abandon ship drills; familiarity with the ship's damage control and fire control plans; bridge, cargo and machinery operations; and ability to understand manuals and other instructions.



The May 1994 amendments (MSC)

Adoption: 25 May 1994

Entry into force: 1 January 1996

Three new regulations were added to Chapter V

Regulation 15.1 requires all tankers of 20,000 dwt and above built after 1 January 1996 to be fitted with an emergency towing arrangement to be fitted at both ends of the ship. Tankers built before that date had to be fitted with a similar arrangement not later than 1 January 1999.

Regulation 22 is aimed at improving navigation bridge visibility.

Regulation 8.1 makes mandatory the use of ship reporting systems approved by IMO. General principles for ship reporting systems were previously adopted by IMO in 1989 as a recommendation. The systems are used to provide, gather or exchange information through radio reports.

The regulation makes it mandatory for ships entering areas covered by ship reporting systems to report in to the coastal authorities giving details of sailing plans.

In Chapter II-2 improvements were made to regulation 15, which deals with fire protection arrangements for fuel oil, lubrication oil and other flammable oils.

Amendments to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code) and the Code for the Construction and Equipment of Ships Carrying Liquefied Gases (Gas Carrier Code) relate to the filling limits for cargo tanks.



The December 1994 amendments

Adoption: 9 December 1994

Entry into force: 1 July 1996

In Chapter VI (Carriage of Cargoes), the Code of Safe Practice for Cargo Stowage and Securing is made mandatory. The Code was adopted as a recommendation in 1991. The amendments make it mandatory to provide the cargo information required by the Code and for cargo units, including containers, to be loaded, stowed and secured in accordance with a manual that must be at least equivalent to the Code.

The Code is also made mandatory under Chapter VII (Carriage of dangerous goods).



The May 1995 amendments

Adoption: 16 May 1995

Entry into force: 1 January 1997

Regulation 8 of Chapter V was amended to make ships' routing systems compulsory. Governments are responsible for submitting proposals for ships' routing systems to IMO in accordance with amendments to the General Provisions on Ships' Routing, which were adopted at the same time.

The November 1995 amendments (Conference)

Adopted: 29 November 1995

Entry into force: 1 July 1997

The conference adopted a series of amendments to SOLAS, based on proposals put forward by the Panel of Experts on the safety of roll on-roll off passenger ships which was established in December 1994 following the sinking of the ferry **Estonia**.

The most important changes relate to the stability of ro-ro passenger ships in Chapter II-1.

The SOLAS 90 damage stability standard, which had applied to all ro-ro passenger ships built since 1990, was extended to existing ships in accordance with an agreed phase-in programme. Ships that only meet 85% of the standard had to comply fully by 1 October 1998 and those meeting 97.5% or above, by 1 October 2005. (The SOLAS 90 standard refers to the

damage stability standard in the 1988 (October) amendments to SOLAS adopted 28 October 1988 and entering into force on 29 April 1990.)

The conference also adopted a new regulation 8-2, containing special requirements for ro-ro passenger ships carrying 400 passengers or more. This is intended to phase out ships built to a one-compartment standard and ensure that they can survive without capsizing with two main compartments flooded following damage.

Amendments to other Chapters in the SOLAS Convention included changes to Chapter III, which deals with life saving appliances and arrangements, including the addition of a section requiring ro-ro passenger ships to be fitted with public address systems, a regulation providing improved requirements for life-saving appliances and arrangements and a requirement for all passenger ships to have full information on the details of passengers on board and requirements for the provision of a helicopter pick-up or landing area.

Other amendments were made to Chapter IV (radiocommunications); Chapter V (safety of navigation) - including a requirement that all ro-ro passenger ships should have an established working language - and Chapter VI (carriage of cargoes).

The conference also adopted a resolution which permits regional arrangements to be made on special safety requirements for ro-ro passenger ships.

The June 1996 amendments

Adoption: 4 June 1996

Entry into force: 1 July 1998

A completely revised Chapter III on life-saving appliances and arrangements was adopted. The amendments take into account changes in technology since the Chapter was last rewritten in 1983.

Many of the technical requirements were transferred to a new International Life-Saving Appliance (LSA) Code, applicable to all ships built on or after 1 July 1998. Some of the amendments apply to existing ships as well as new ones.

Other SOLAS Chapters were also amended.

In Chapter II-1, a new part A-1 dealing with the structure of ships was added. Regulation 3-1 requires ships to be designed, constructed and maintained in compliance with structural requirements of a recognized classification society or with applicable requirements by the Administration. Regulation 3-2 deals with corrosion prevention of seawater ballast tanks and other amendments to Chapter II-1 concern the stability of passenger and cargo ships in the damaged condition.

In Chapter VI, Regulation 7 was replaced by a new text dealing with the loading, unloading and stowage of bulk cargoes. It is intended to ensure that no excessive stress is placed on the ship's structure during such operations. The ship must be provided with a booklet giving advice on cargo handling operations and the master and terminal representative must agree on a plan to ensure that loading and unloading is carried out safely.

In Chapter XI, an amendment was made regarding authorization of recognized organizations.

The International Bulk Chemicals (IBC) and Bulk Chemicals (BCH) Codes were also amended. The IBC Code is mandatory under SOLAS and applies to ships carrying dangerous chemicals in bulk that were built after 1 July 1986. The BCH is recommended and applies to ships built before that date.



The December 1996 amendments

Adoption: 6 December 1996

Entry into force: 1 July 1998

Chapter II-2 was considerably modified, with changes to the general introduction, Part B (fire safety measures for passenger ships), Part C (fire safety measures for cargo ships) and Part D (fire safety measures for tankers). The changes made mandatory a new International Code for Application of Fire Test Procedures intended to be used by Administrations when approving products for installation in ships flying their flag.

Amendments to Chapter II-1 included a requirement for ships to be fitted with a system to ensure that the equipment necessary for propulsion and steering are maintained or immediately restored in the case of loss of any one of the generators in service.

An amendment to Chapter V aims to ensure that the crew can gain safe access to the ship's bow, even in severe weather conditions. Amendments were also made to two regulations in Chapter VII relating to carriage of dangerous goods and the IBC Code was also amended.



The June 1997 amendments

Adoption: 4 June 1997

Entry into force: 1 July 1999 (Under tacit acceptance)

The amendments included a new Regulation 8.2 on Vessel Traffic Services (VTS) in Chapter V. VTS are traffic management systems, for example those used in busy straits. This Regulation sets out when VTS can be implemented. It says Vessel Traffic Services should be designed to contribute to the safety of life at sea, safety and efficiency of navigation and the protection of the marine environment, adjacent shore areas, worksites and offshore installations from possible adverse effects of maritime traffic.

Governments may establish VTS when, in their opinion, the volume of traffic or the degree of risk justifies such services. But no VTS should prejudice the "rights and duties of governments under international law" and a VTS may only be made mandatory in sea areas within a State's territorial waters.

In Chapter II-1, a new regulation 8.3 on "Special requirements for passenger ships, other than ro-ro passenger ships, carrying 400 persons or more" effectively makes these ships comply with the special requirements for ro-ro passenger ships in Regulation 8.2 which were adopted in November 1995. The special requirements are aimed at ensuring the ships can survive

without capsizing with two main compartments flooded following damage.



The November 1997 amendments (Conference)

Adoption: 27 November 1997

Entry into force: 1 July 1999

The Conference adopted a Protocol adding a new Chapter XII to the Convention entitled Additional Safety Measures for Bulk Carriers.

The regulations state that all new bulk carriers 150 metres or more in length (built after 1 July 1999) carrying cargoes with a density of 1,000 kg/m³ and above should have sufficient strength to withstand flooding of any one cargo hold, taking into account dynamic effects resulting from presence of water in the hold and taking into account the recommendations adopted by IMO.

For existing ships (built before 1 July 1999) carrying bulk cargoes with a density of 1,780 kg/m³ and above, the transverse watertight bulkhead between the two foremost cargo holds and the double bottom of the foremost cargo hold should have sufficient strength to withstand flooding and the related dynamic effects in the foremost cargo hold.

Cargoes with a density of 1,780 kg/m³ and above (heavy cargoes) include iron ore, pig iron, steel, bauxite and cement. Lighter cargoes, but with a density of more than 1,000 kg/m³, include grains such as wheat and rice, and timber.

The amendments take into account a study into bulk carrier survivability carried out by the International Association of Classification Societies (IACS) at the request of IMO. IACS found that if a ship is flooded in the forward hold, the bulkhead between the two foremost holds may not be able to withstand the pressure that results from the sloshing mixture of cargo and water, especially if the ship is loaded in alternate holds with high density cargoes (such as iron ore). If the bulkhead between one hold and the next collapses, progressive flooding could rapidly occur throughout the length of the ship and the vessel would sink in a matter of minutes.

IACS concluded that the most vulnerable areas are the bulkhead between numbers one and two holds at the forward end of the vessel and the double bottom of the ship at this location. During special surveys of ships, particular attention should be paid to these areas and, where necessary, reinforcements should be carried out.

The criteria and formulae used to assess whether a ship currently meets the new requirements, for example in terms of the thickness of the steel used for bulkhead structures, or whether reinforcement is necessary, are laid out in IMO standards adopted by the 1997 Conference.

Under Chapter XII, surveyors can take into account restrictions on the cargo carried in considering the need for, and the extent of, strengthening of the transverse watertight bulkhead or double bottom. When restrictions on cargoes are imposed, the bulk carrier should be permanently marked with a solid triangle on its side shell. The date of application of the new Chapter to existing bulk carriers depends on their age. Bulk carriers which are 20 years

old and over on 1 July 1999 have to comply by the date of the first intermediate or periodic survey after that date, whichever is sooner. Bulk carriers aged 15-20 years must comply by the first periodical survey after 1 July 1999, but not later than 1 July 2002. Bulk carriers less than 15 years old must comply by the date of the first periodical survey after the ship reaches 15 years of age, but not later than the date on which the ship reaches 17 years of age.

The May 1998 amendments

Adoption: 18 May 1998

Entry into force: 1 July 2002 (Under tacit acceptance)

Amendments were made to regulation 14 on Construction and initial testing of watertight bulkheads, etc., in passenger ships and cargo ships in Chapter II-1. Paragraph 3 is replaced to allow visual examination of welded connections, where filling with water or a hose test are not practicable.

In Chapter IV, the amendments included:

a new regulation 5-1 requiring Contracting Governments to ensure suitable arrangements are in place for registering Global Maritime Distress and Safety System (GMDSS) identities (including ship's call sign, Inmarsat identities) and making the information available 24 hours a day to Rescue Co-ordination Centres;

a new paragraph 9 to regulation 15 Maintenance requirements covering testing intervals for satellite emergency position indicating radio beacons (EPIRBs);

a new regulation 18 on Position updating requiring automatic provision of information regarding the ship's position where two-way communication equipment is capable of providing automatically the ship's position in the distress alert.

Amendments in Chapter VI to paragraph 6 of regulation 5 *Stowage and securing* make it clear that "all cargoes, other than solid and liquid bulk cargoes" should be loaded, stowed and secured in accordance with the Cargo Securing Manual. A similar amendment was adopted for Regulation 6 of Chapter VII, also covering *Stowage and securing*.



The May 1999 amendments

Adoption: 27 May 1999

Entry into force: 1 January 2001 (Under tacit acceptance)

Amendments to Chapter VII make the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code) mandatory.

The INF Code sets out how the material covered by the Code should be carried, including specifications for ships. The material covered by the code includes:

- *Irradiated nuclear fuel* - material containing uranium, thorium and/or plutonium isotopes which has been used to maintain a self-sustaining nuclear chain reaction.

- *Plutonium* - the resultant mixture of isotopes of that material extracted from irradiated nuclear fuel from reprocessing

- *High-level radioactive wastes* - liquid wastes resulting from the operation of the first stage extraction system or the concentrated wastes from subsequent extraction stages, in a facility for reprocessing irradiated fuel, or solids into which such liquid wastes have been converted.

The INF Code applies to all ships regardless of the date of construction and size, including cargo ships of less than 500 gross tonnage, engaged in the carriage of INF cargo. The INF Code does not apply to warships, naval auxiliary or other ships used only on government non-commercial service, although Administrations are expected to ensure such ships are in compliance with the Code.

Specific regulations in the Code cover a number of issues, including: damage stability, fire protection, temperature control of cargo spaces, structural consideration, cargo securing arrangements, electrical supplies, radiological protection equipment and management, training and shipboard emergency plans.

Ships carrying INF cargo are assigned to one of three classes, depending on the total radioactivity of INF cargo which is carried on board, and regulations vary slightly according to the Class:

Class INF 1 ship - Ships which are certified to carry INF cargo with an aggregate activity less than 4,000 TBq (TeraBecquerel - measurement of radioactivity).

Class INF 2 ship - Ships which are certified to carry irradiated nuclear fuel or high-level radioactive wastes with an aggregate activity less than 2×10^6 TBq and ships which are certified to carry plutonium with an aggregate activity less than 2×10^5 TBq.

Class INF 3 ship - Ships which are certified to carry irradiated nuclear fuel or high-level radioactive wastes and ships which are certified to carry plutonium with no restriction of the maximum aggregate activity of the materials.

The INF Code was first adopted as a recommendatory Code by the eighteenth session of the Assembly on 4 November 1993 (resolution A.748(18)). The twentieth session of the Assembly adopted amendments to the INF Code to include specific requirements for shipboard emergency plans and notification in the event of an incident (resolution A.853(20), adopted on 27 November 1997).

The Maritime Safety Committee also adopted a redrafted text of the INF Code incorporating amendments reflecting its mandatory nature.

The May 2000 amendment

Adoption: 26 May 2000

Entry into force: 1 January 2002 (Under tacit acceptance)

SOLAS Chapter III, regulation 28.2 for helicopter landing areas is amended to require a helicopter landing area **only for ro-ro passenger ships**. Regulation 28.1 of SOLAS Chapter

III requires all ro-ro passenger ships to be provided with a helicopter pick-up area and existing ro-ro passenger ships were required to comply with this regulation not later than the first periodical survey after 1 July 1997.

The requirement for a helicopter landing area for all passenger ships of 130 metres in length and upwards was deferred to 1 July 1999 but it was decided to amend the regulation to make this requirement applicable to ro-ro passenger ships only.

The December 2000 amendments

Adoption: 6 December 2000

Entry into force: 1 July 2002 (Under tacit acceptance)

A number of amendments were adopted.

A revised SOLAS **chapter V (Safety of Navigation)** brings in a new mandatory requirement for voyage data recorders (VDRs) to assist in accident investigations. Regulation 20 requires the following ships to fit VDRs:

- passenger ships constructed on or after 1 July 2002;
- ro-ro passenger ships constructed before 1 July 2002 not later than the first survey on or after 1 July 2002
- passenger ships other than ro-ro passenger ships constructed before 1 July 2002 not later than 1 January 2004; and
- ships, other than passenger ships, of 3,000 gross tonnage and upwards constructed on or after 1 July 2002.

The new chapter also requires automatic identification systems (AIS), capable of providing information about the ship to other ships and to coastal authorities automatically, to be fitted aboard all ships of 300 gross tonnage and upwards engaged on international voyages, cargo ships of 500 gross tonnage and upwards not engaged on international voyages and passenger ships irrespective of size built on or after 1 July 2002.

It also applies to ships engaged on international voyages constructed before 1 July 2002, according to the following timetable:

- passenger ships, not later than 1 July 2003;
- tankers, not later than the first survey for safety equipment on or after 1 July 2003;
- ships, other than passenger ships and tankers, of 50,000 gross tonnage and upwards, not later than 1 July 2004;
- ships, other than passenger ships and tankers, of 10,000 gross tonnage and upwards but less than 50,000 gross tonnage, not later than 1 July 2005;
- ships, other than passenger ships and tankers, of 3,000 gross tonnage and upwards but less

than 10,000 gross tonnage, not later than 1 July 2006.

- ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 3,000 gross tonnage, not later than 1 July 2007.

Note: the phase-in schedule for AIS on ships 300 gross tonnage and upwards was amended by the 2002 amendments to a final date of 2004 (see below).

Amendments to SOLAS chapter X (Safety measures for high-speed craft) make mandatory for new ships the High-Speed Craft Code 2000. The 2000 HSC Code updates the mandatory High-Speed Craft Code adopted in 1994. The 2000 HSC will apply to all HSC built after the date of entry into force, 1 July 2002. The original HSC Code was adopted by IMO in May 1994, but the rapid pace of development in this sector of shipping has meant an early revision of the Code. The original Code will continue to apply to existing high-speed craft. The changes incorporated in the new Code are intended to bring it into line with amendments to SOLAS and new recommendations that have been adopted in the past four years - for example, requirements covering public address systems and helicopter pick-up areas

A revised **SOLAS chapter II-2 (Construction, - Fire protection, fire detection and fire extinction)** as well as a new **International Code for Fire Safety Systems (FSS Code)** were adopted. The revised chapter is intended to be clear, concise and user-friendly, incorporating the substantial changes introduced in recent years following a number of serious fire casualties. The revised chapter includes seven parts, each including requirements applicable to all or specified ship types, while the Fire Safety Systems (FSS) Code, which is made mandatory under the new chapter, includes detailed specifications for fire safety systems in 15 Chapters.

A new regulation in SOLAS Chapter II-1 (Construction - Structure, subdivision and stability, machinery and electrical installations) **prohibits the new installation of materials which contain asbestos on all ships.** The new regulation 3-5 is included in SOLAS Chapter II-1 (Construction - Structure, Subdivision and stability, machinery and electrical installations).

Amendments to the **1988 SOLAS Protocol** include amendments to reflect the changes to SOLAS chapter V, such as the details of navigational systems and equipment referred to in the records of equipment attached to certificates.

Amendments to the **International Code for the Application of Fire Test Procedures (FTP Code)** add new parts 10 and 11 to annex 1 on Test for fire-restricting material for high-speed craft and test for fire-resisting divisions of high-speed craft.

Amendments to the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (**IBC Code**) and the Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (**BCH Code**) relate to cargo hose requirements, protection of personnel and carriage of carbon disulphide. Entry into force 1 July 2002 under tacit acceptance.

Amendments to the International Safety Management Code (**ISM Code**) include the replacement of Chapter 13 Certification, verification and control with chapters 13 Certification; and adding of chapters 14 Interim Certification; 15 Forms of Certificate; and 16 Verification; as well as a new appendix giving forms of documents and certificates.

Amendments to the Code for the Construction and equipment of ships carrying dangerous chemicals in bulk (**BCH Code**) relate to ship's cargo hoses, tank vent systems, safety equipment, operational requirements; and amendments to the Code for the construction and equipment of ships carrying liquefied gases in bulk (**GC Code**) relate to ship's cargo hoses, personnel protection and operating requirements.

The June 2001 Amendments

Adoption: June 2001

Entry into force: 1 January 2003 (Under tacit acceptance)

Amendments to Chapter VII - Carriage of Dangerous Goods - and to the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code) to align them with Amendment 30 to the International Maritime Dangerous Goods (IMDG) Code.

Also amendments to the International Code of Safety for High-Speed Craft (1994 HSC Code) to bring the provisions for navigational equipment of the 1994 HSC Code in line with the relevant provisions of the 2000 HSC Code (which enters into force on 1 July 2002 for ships built after that date). In particular the amendments relate to carriage of voyage data recorders and carriage of automatic identification systems (AIS).

The May 2002 amendments

Adoption: 24 May 2002

Entry into force: 1 January 2004

The amendments to chapter SOLAS VII (Carriage of Dangerous Goods) make the International Maritime Dangerous Goods Code (IMDG Code) mandatory. The MSC also adopted the IMDG Code in a mandatory form.

However, the provisions of the following parts of the Code will remain recommendatory:

- chapter 1.3 (Training);
- chapter 2.1 (Explosives, Introductory Notes 1 to 4 only);
- chapter 2.3, section 2.3.3 (Determination of flashpoint only);
- chapter 3.2 (columns 15 and 17 of the Dangerous Goods List only);
- chapter 3.5 (Transport schedule for Class 7 radioactive material only),
- chapter 5.4, section 5.4.5 (Multimodal dangerous goods form), insofar as layout of the form is concerned;
- chapter 7.3 (Special requirements in the event of an incident and fire precautions involving dangerous goods only).

In practice, this means that from the legal point of view, the whole of the IMDG Code is made mandatory, but provisions of recommendatory nature are editorially expressed in the Code (e.g. using the word "should" instead of "shall") to clarify their status.

The mandatory IMDG Code incorporates certain changes relating to specific products, as well as relevant elements of the amendments to the UN Recommendations on the Transport of Dangerous Goods, Model Regulations adopted by the UN Committee of Experts on the Transport of Dangerous Goods at its twenty-first session in Geneva from 4 to 13 December 2000.

Also, amendments to the 1978 SOLAS Protocol, make changes to the Record of Equipment for the Passenger Ship Safety Certificate (Form P); Record of Equipment for the Cargo Ship Safety Radio Certificate (Form R); and Record of Equipment for the Cargo Ship Safety Certificate (Form C).

The December 2002 amendments (Conference) - Measures to enhance maritime security

Adoption: 13 December 2002

Entry into force: 1 July 2004 (Under tacit acceptance)

The amendments to the 1974 SOLAS Convention were adopted by a Diplomatic Conference on Maritime Security and are aimed at enhancing maritime security on board ships and at ship/port interface areas. Among other things, these amendments create a new SOLAS chapter dealing specifically with maritime security, which in turn contains the mandatory requirement for ships to comply with the the new International Ship and Port Facility Security Code (ISPS Code). The Code contains detailed security-related requirements for Governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B). The Conference also adopted a series of resolutions designed to add weight to the amendments, encourage the application of the measures to ships and port facilities not covered by the Code and pave the way for future work on the subject..

Modifications to Chapter V (Safety of Navigation) contain a new timetable for the fitting of Automatic Information Systems (AIS). Ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 50,000 gross tonnage, will be required to fit AIS not later than the first safety equipment survey after 1 July 2004 or by 31 December 2004, whichever occurs earlier. Ships fitted with AIS shall maintain AIS in operation at all times except where international agreements, rules or standards provide for the protection of navigational information."

The existing SOLAS Chapter XI (Special measures to enhance maritime safety) has been re-numbered as Chapter XI-1. Regulation XI-1/3 is modified to require ships' identification numbers to be permanently marked in a visible place either on the ship's hull or superstructure. Passenger ships should carry the marking on a horizontal surface visible from the air. Ships should also be marked with their ID numbers internally.

And a new regulation XI-1/5 requires ships to be issued with a Continuous Synopsis Record (CSR) which is intended to provide an on-board record of the history of the ship. The CSR shall be issued by the Administration and shall contain information such as the name of the ship and of the State whose flag the ship is entitled to fly, the date on which the ship was registered with that State, the ship's identification number, the port at which the ship is registered and the name of the registered owner(s) and their registered address. Any changes shall be recorded in the CSR so as to provide updated and current information together with the history of the changes.

New Chapter XI-2 (Special measures to enhance maritime security)

A brand-new Chapter XI-2 (Special measures to enhance maritime security) is added after the renumbered Chapter XI-1.

This chapter applies to passenger ships and cargo ships of 500 gross tonnage and upwards, including high speed craft, mobile offshore drilling units and port facilities serving such ships engaged on international voyages.

Regulation XI-2/3 of the new chapter enshrines the International Ship and Port Facilities Security Code (ISPS Code). Part A of this Code will become mandatory and part B contains guidance as to how best to comply with the mandatory requirements.

The regulation requires Administrations to set security levels and ensure the provision of security level information to ships entitled to fly their flag. Prior to entering a port, or whilst in a port, within the territory of a Contracting Government, a ship shall comply with the requirements for the security level set by that Contracting Government, if that security level is higher than the security level set by the Administration for that ship.

Regulation XI-2/4 confirms the role of the Master in exercising his professional judgement over decisions necessary to maintain the security of the ship. It says he shall not be constrained by the Company, the charterer or any other person in this respect. Regulation XI-2/4 confirms the role of the Master in exercising his professional judgement over decisions necessary to maintain the security of the ship. It says he shall not be constrained by the Company, the charterer or any other person in this respect.

Regulation XI-2/5 requires all ships to be provided with a ship security alert system, according to a strict timetable that will see most vessels fitted by 2004 and the remainder by 2006. When activated the ship security alert system shall initiate and transmit a ship-to-shore security alert to a competent authority designated by the Administration, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised. The system will not raise any alarm on-board the ship. The ship security alert system shall be capable of being activated from the navigation bridge and in at least one other location.

Regulation XI-2/6 covers requirements for port facilities, providing among other things for Contracting Governments to ensure that port facility security assessments are carried out and that port facility security plans are developed, implemented and reviewed in accordance with the ISPS Code.

Other regulations in this chapter cover the provision of information to IMO, the control of ships in port, (including measures such as the delay, detention, restriction of operations including movement within the port, or expulsion of a ship from port), and the specific responsibility of Companies.

The December 2002 amendments (by the expanded MSC)

Adoption: 12 December 2002

Entry into force: 1 July 2004 (Under tacit acceptance)

Chapter XII (Additional Safety Measures for Bulk Carriers) -

- New regulation XII/12 on Hold, ballast and dry space water level detectors require the fitting of high level alarms and level monitoring systems on all bulk carriers, in order to detect water ingress. The regulation requires the fitting of such alarms on all bulk carriers regardless of their date of construction.

- New regulation XII/13 on Availability of pumping systems would require the means for draining and pumping dry space bilges and ballast tanks any part of which is located forward of the collision bulkhead to be capable of being brought into operation from a readily accessible enclosed space.

SOLAS chapter II-1 (Construction - structure, subdivision and stability, machinery and electrical installations)-

- In Part B (Subdivision and stability), new regulation II-1/3-6 Access to spaces in cargo areas of oil tankers and bulk carriers is intended to ensure that vessels can be properly inspected throughout their lifespan, by designing and building the ship to provide suitable means for access. Associated Technical provisions for means of access for inspections are mandatory under the regulation. Without adequate access, the structural condition of the vessel can deteriorate undetected and major structural failure can arise. The regulation requires each space within the cargo area to be provided with an appropriate means of access to enable, throughout the life of a ship, overall and close-up inspections and thickness measurements of the ship's structures to be carried out by the Administration, the Company, and the ship's personnel and others as necessary.
- In Part C (Machinery Installation), new paragraph added to regulation 31 - Machinery control, to require automation systems to be designed in a manner which ensures that threshold warning of impending or imminent slowdown or shutdown of the propulsion system is given to the officer in charge of the navigational watch in time to assess navigational circumstances in an emergency.

Chapter II-2 (Fire protection, fire detection and fire extinction) -

- The amendments concern references to the IMDG Code and reflect amendments to SOLAS chapter VII (Carriage of Dangerous Goods) adopted in May 2002 which make the International Maritime Dangerous Goods Code (IMDG Code) mandatory.

Chapter III - Life-saving appliances and arrangements -

- The amendments to Regulation 26 - Additional requirements for ro-ro passenger ships, requires liferafts carried on ro-ro passenger ships to be fitted with a radar transponder in the ratio of one transponder for every four liferafts. The regulation is made applicable to existing ships as well as new ships.

Also adopted, amendments to the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on board Ships (**INF Code**) - The amendments in the sections on definitions and application reflect amendments to SOLAS chapter VII (Carriage of Dangerous Goods) adopted in May 2002 which make the IMDG Code mandatory.

**TORREMOLINOS INTERNATIONAL CONVENTION FOR THE SAFETY OF
FISHING VESSELS**
**TORREMOLINOS INTERNATIONAL CONVENTION FOR THE SAFETY OF
FISHING VESSELS, 1977, being the PROTOCOL OF 1993 together with the
Regulations Annexed to the Convention as modified by the Annex to the Protocol.**

Article 1 General obligations

(1) The Parties to the present Protocol shall give effect to the provisions of:

(a) the articles of the present Protocol; and
(b) the regulations contained in the Annex to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (hereinafter referred to as "the Convention"), subject to the modifications set out in the Annex to the present Protocol.

(2) The articles of the present Protocol and the regulations of the Annex to the Convention shall, subject to the modifications set out in the Annex to the present Protocol, be read and interpreted as one single instrument.

(3) The Annex to the present Protocol shall constitute an integral part of the Protocol and a reference to the present Protocol shall constitute at the same time a reference to the Annex hereto.

Article 2 Definitions

For the purpose of the present Protocol, unless expressly provided otherwise:

- (a) "Party" means a State for which the present Protocol has entered into force;
(b) "Fishing vessel" or "vessel" means any vessel used commercially for catching fish, whales, seals, walrus or other living resources of the sea;
(c) "Organization" means the International Maritime Organization;
(d) "Secretary-General" means the Secretary-General of the Organization;
(e) "Administration" means the Government of the State whose flag the vessel is entitled to fly;
(f) "Regulations" means the regulations contained in the Annex to the Convention as modified by the present Protocol.

Article 3 Application

(1) The present Protocol shall apply to seagoing fishing vessels including vessels also processing their catch entitled to fly the flag of a Party.

(2) The provisions of the Annex shall not apply to vessels exclusively used:

- (a) for sport or recreation;
(b) for processing fish or other living resources of the sea;
(c) for research and training; or
(d) as fish carriers.

(3) Unless expressly provided otherwise, the provisions of the Annex shall apply to fishing vessels of 24 metres in length and over.

(4) In a case where a limit of the vessel's length is prescribed as greater than 24 metres in a chapter for the application of that chapter, the Administration shall determine which regulations of that chapter should apply, wholly or in part, to a fishing vessel of 24 metres in length and over but less than the length limit prescribed in that chapter and entitled to fly the flag of that State, having regard to the type, size and mode of operation of such a vessel.

(5) Parties shall endeavour to establish, as a matter of high priority, uniform standards to be applied by Administrations to fishing vessels referred to in paragraph (4), which operate in the same region, taking into account the mode of operation, sheltered nature and climatic conditions in such region. Such uniform regional standards shall be communicated to the Organization for circulation to other Parties for information.

Article 4 Certification and port State control

(1) Every vessel required to hold a certificate in accordance with the provisions of the regulations is subject, when in a port of another Party, to control by officers duly authorized by the Government of that Party in so far as this control is directed towards verifying that the certificate issued under the provisions of the relevant regulations is valid.

(2) Such certificate, if valid, shall be accepted unless there are clear grounds for believing that the condition of the vessel or of its equipment does not correspond substantially with the particulars of that certificate or that the vessel and its equipment are not in compliance with the provisions of the relevant regulations.

(3) In the circumstances given in paragraph (2) or where a certificate has expired or ceased to be valid, the officer carrying out the control shall take steps to ensure that the vessel shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the appropriate repair yard without danger to the vessel or persons on board.

(4) In the event of this control giving rise to an intervention of any kind, the officer carrying out the control shall forthwith inform, in writing, the Consul or, in his absence, the nearest diplomatic representative of the State whose flag the vessel is entitled to fly, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the certificates shall also be notified. The facts concerning the intervention shall be reported to the Organization.

(5) If the port State authority concerned is unable to take steps as specified in paragraph (3) or if the vessel has been allowed to proceed to the next port of call, the port State authority concerned shall notify all relevant information about the vessel to the Party mentioned in paragraph (4) and to the authorities of the next port of call.

(6) When exercising control under this article, all possible efforts shall be made to avoid a vessel being unduly detained or delayed. If a vessel is thereby unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered.

(7) With respect to vessels of non-Parties to the present Protocol, Parties shall apply the requirements of the present Protocol as may be necessary to ensure that no more favourable treatment is given to such vessels.

Article 5 Force majeure

(1) A vessel which is not subject to the provisions of the present Protocol or which is not required to hold a certificate in accordance with the provisions of the present Protocol at the time of its departure on any voyage shall not become subject to such provisions on account of any deviation from its intended voyage due to stress of weather or any other cause of force majeure.

(2) Persons who are on board a vessel by reason of force majeure or in consequence of the obligation to carry shipwrecked or other persons shall not be taken into account for

the purpose of ascertaining the application to the vessel of any provisions of the present Protocol.

Article 6 Communication of information

(1) The Parties shall communicate to the Organization:

- (a) the text of laws, orders, decrees, regulations and other instruments which have been promulgated on the various matters within the scope of the present Protocol;
- (b) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of vessels in accordance with the provisions of the present Protocol; and
- (c) a sufficient number of specimens of their certificates issued under the provisions of the present Protocol.

(2) The Organization shall notify all Parties of the receipt of any communication under paragraph (1)(a) and shall circulate to them any information communicated to it under paragraphs (1)(b) and (1)(c).

Article 7 Casualties to fishing vessels

(1) Each Party shall arrange for an investigation of any casualty occurring to any of its vessels subject to the provisions of the present Protocol, when it judges that such an investigation may assist in determining what changes in the present Protocol might be desirable.

(2) Each Party shall supply the Organization with pertinent information concerning the findings of such investigations for circulation to all Parties. No reports or recommendations of the Organization based upon such information shall disclose the identity or nationality of the vessels concerned or in any manner fix or imply responsibility upon any vessel or person.

Article 8 Other treaties and interpretation

Nothing in the present Protocol shall prejudice the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article 9 Signature, ratification, acceptance, approval and accession

(1) The present Protocol shall remain open for signature at the Headquarters of the Organization from 1 July 1993 until 30 June 1994 and shall thereafter remain open for accession. All States may become Parties to the present Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

(3) Each State which has either signed the present Protocol without reservation as to ratification, acceptance or approval or has deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with this article shall transmit to the Secretary-General, at the time of deposit of the above instrument and by the end of each year, information on the aggregate number of fishing vessels of 24 metres in length and over entitled to fly the flag of that State.

Article 10 Entry into force

(1) The present Protocol shall enter into force twelve months after the date on which not less than fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article 9, the aggregate number of whose fishing vessels of 24 metres in length and over is not less than 14,000.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Protocol after the requirements for entry into force thereof 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 the present Protocol or three months after the date of deposit of the instrument, whichever is the later date.

(3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the present Protocol entered into force, the present Protocol shall become effective three months after the date of deposit of the instrument.

(4) After the date on which an amendment to the present Protocol is deemed to have been accepted under article 11, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

Article 11 Amendments

(1) The present Protocol may be amended by either of the procedures specified in this article.

(2) Amendment after consideration within the Organization:

(a) Any amendment proposed by a Party shall be submitted to the Secretary-General, who shall then circulate it to all Members of the Organization and to all the Parties at least six months prior to its consideration.

(b) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organization for consideration.

(c) Parties whether or not Members of the Organization shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

(d) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee expanded as provided for in paragraph (2)(c) (hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one third of the Parties shall be present at the time of voting.

(e) Amendments adopted in accordance with paragraph (2)(d) shall be communicated by the Secretary-General to all the Parties.

(f) (i) An amendment to an article shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties.

(ii) An amendment to the Annex shall be deemed to have been accepted:

(aa) at the end of two years from the date of adoption; or

(bb) at the end of a different period, which shall not be less than one year, if so determined at the time of its adoption by a two-thirds majority of the Parties present and voting in the expanded Maritime Safety Committee.

However, if within the specified period either more than one third of the Parties or Parties the aggregate number of whose fishing vessels is not less than sixty-five per cent of the number of fishing vessels of 24 metres in length and over of all the Parties, notify the

Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.

(g) (i) An amendment to an article shall enter into force, with respect to those Parties which have accepted it, six months after the date on which it is deemed to have been accepted and, with respect to each Party which accepts it after that date, six months after the date of that Party's acceptance.

(ii) An amendment to the Annex shall enter into force with respect to all Parties, except those which have objected to the amendment under paragraph (2)(f)(ii) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Parties present and voting in the expanded Maritime Safety Committee at the time of the adoption of the amendment.

(3) Amendment by a Conference:

(a) Upon the request of a Party concurred with by at least one third of the Parties, the Organization shall convene a Conference of the Parties to consider amendments to the present Protocol.

(b) Every amendment adopted by such a Conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General to all the Parties for acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraphs (2)(f) and (2)(g) respectively, provided that references in those paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the Conference.

(4)

(a) A Party, which has accepted an amendment to the Annex which has entered into force, shall not be obliged to extend the benefit of the present Protocol in respect of the certificates issued to a vessel entitled to fly the flag of a State the Government of which, pursuant to the provisions of paragraph (2)(f)(ii) of this article, has objected to the amendment and has not withdrawn such an objection, but only to the extent that such certificates relate to matters covered by the amendment in question.

(b) A Party, which has accepted an amendment to the Annex which has entered into force, shall extend the benefit of the present Protocol in respect of certificates issued to a vessel entitled to fly the flag of a State the Government of which, pursuant to the provisions of paragraph (2)(g)(ii) of this article, has notified the Secretary-General of the Organization that it exempts itself from giving effect to the amendment.

(5) Unless expressly provided otherwise, any amendment to the present Protocol which relates to the structure of a vessel shall apply only to vessels for which, on or after the date of entry into force of the amendment:

(a) the keel is laid; or

(b) construction identifiable with a specific vessel begins; or

(c) assembly has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

(6) Any declaration of acceptance of, or objection to, an amendment or any notice given under paragraph (2)(g)(ii) shall be submitted in writing to the Secretary-General who shall inform all the Parties of any such submission and of the date of its receipt.

(7) The Secretary-General shall inform all the Parties of any amendments which enter into force under this article together with the date on which each such amendment enters into force.

Article 12 Denunciation

(1) The present Protocol may be denounced by any Party at any time after the expiry of five years from the date on which the present Protocol enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General.

(3) A denunciation shall take effect twelve months after receipt of the denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

Article 13 Depositary

(1) The present Protocol shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the Depositary").

(2) The Depositary shall:

(a) inform the Governments of all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of the present Protocol;

(iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of the present Protocol to the Governments of all States which have signed the present Protocol or acceded thereto.

(3) As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 14 Languages

The present Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed the present Protocol.

DONE AT Torremolinos this second day of April one thousand nine hundred and ninety-three.

International Convention on Maritime Search and Rescue, 1979
(Hamburg, 27 April 1979)

THE PARTIES TO THE CONVENTION,

NOTING the great importance attached in several conventions to the rendering of assistance to persons in distress at sea and to the establishment by every coastal State of adequate and effective arrangements for coast watching and for search and rescue services,

HAVING CONSIDERED Recommendation 40 adopted by the International Conference on Safety of Life at Sea, 1960, which recognizes the desirability of co-ordinating activities regarding safety on and over the sea among a number of inter-governmental organizations,

DESIRING to develop and promote these activities by establishing an international maritime search and rescue plan responsible to the needs of maritime traffic for the rescue of persons in distress at sea,

WISHING to promote co-operation among search and rescue organizations around the world and among those participating in search and rescue operations at sea.

HAVE AGREED as follows:

Article I

General obligations under the Convention

The Parties undertake to adopt all legislative or other appropriate measures necessary to give full effect to the Convention and its Annex, which is an integral part of the Convention. Unless expressly provided otherwise, a reference to the Convention constitutes at the same time a reference to its Annex.

Article II

Other treaties and interpretation

1. Nothing in the Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to resolution 2750(XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

2. No provision of the Convention shall be construed as prejudicing obligations or rights of vessels provided for in other international instruments.

Article III

Amendments

1. The Convention may be amended by either of the procedures specified in paragraphs 2 and 3 hereinafter.

2. Amendment after consideration within the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as the Organization):

(a) Any amendment proposed by a Party and transmitted to the Secretary-General of the Organization (hereinafter referred to as the Secretary-General), or any amendment deemed necessary by the Secretary-General as a result of an amendment to a corresponding provision of Annex 12 to the Convention on International Civil Aviation, shall be circulated to all Members of the Organization and all Parties at least six months prior to its consideration by the Maritime Safety Committee of the Organization.

(b) Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

(c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee on condition that at least one third of the Parties shall be present at the time of adoption of the amendment.

(d) Amendments adopted in accordance with sub-paragraph (c) shall be communicated by the Secretary-General to all Parties for acceptance.

(e) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall be deemed to have been accepted on the date on which the Secretary-General has received an instrument of acceptance from two thirds of the Parties.

(f) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall be deemed to have been accepted at the end of one year from the date on which it is communicated to the Parties for acceptance. However, if within such period of one year more than one third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.

(g) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall enter into force:

(i) with respect to those Parties which have accepted it, six months after the date on

which it is deemed to have been accepted;

(ii) with respect to those Parties which accept it after the condition mentioned in sub-paragraph (e) has been met and before the amendment enters into force, on the date of entry into force of the amendment;

(iii) with respect to those Parties which accept it after the date on which the amendment enters into force, 30 days after the deposit of an instrument of acceptance.

(h) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall enter into force with respect to all Parties, except those which have objected to the amendment under sub-paragraph (f) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee at the time of the adoption of the amendment.

3. Amendment by a conference:

(a) Upon the request of a Party concurred in by at least one third of the Parties, the Organization shall convene a conference of Parties to consider amendments to the Convention. Proposed amendments shall be circulated by the Secretary-General to all Parties at least six months prior to their consideration by the conference.

(b) Amendments shall be adopted by such a conference by a two-thirds majority of the Parties present and voting, on condition that at least one third of the Parties shall be present at the time of adoption of the amendment. Amendments so adopted shall be communicated by the Secretary-General to all Parties for acceptance.

(c) Unless the conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in sub-paragraphs 2(e), 2(f), 2(g) and 2(h) respectively, provided that reference in sub-paragraph 2(h) to the Maritime Safety Committee expanded in accordance with sub-paragraph 2(b) shall be taken to mean reference to the conference.

4. Any declaration of acceptance of, or objection to, an amendment or any notice given under sub-paragraph 2(h) shall be submitted in writing to the Secretary-General who shall inform all Parties of any such submission and the date of its receipt.

5. The Secretary-General shall inform States of any amendments which enter into force, together with the date on which each such amendment enters into force.

Article IV

Signature, ratification, acceptance approval and accession

1. The Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1979 until 31 October 1980 and shall thereafter remain open for accession. States may become Parties to the Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

3. The Secretary-General shall inform States of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article V

Entry into force

1. The Convention shall enter into force 12 months after the date on which 15 States have become Parties to it in accordance with Article IV.

2. Entry into force for States which ratify, accept, approve or accede to the Convention in accordance with Article IV after the condition prescribed in paragraph 1 has been met and before the Convention enters into force, shall be on the date of entry into force of the Convention.

3. Entry into force for States which ratify, accept, approve or accede to the Convention after the date on which the Convention enters into force shall be 30 days after the date of deposit of an instrument in accordance with Article IV.

4. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to the Convention in accordance with Article III shall apply to Convention, as amended, and the Convention, as amended, shall enter into force for a State depositing such an instrument 30 days after the date of its deposit.

5. The Secretary-General shall inform States of the date of entry into force of the Convention.

Article VI

Denunciation

1. The Convention may be denounced by any Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General who shall notify States of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General.

Article VII

Deposit and registration

1. The Convention shall be deposited with the Secretary-General who shall transmit certified true copies thereof to States.
2. As soon as the Convention enters into force, the Secretary-General shall transmit the text thereof to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article VIII

Languages

The Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

DONE AT HAMBURG this twenty-seventh day of April one thousand nine hundred and seventy-nine.

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

ANNEX

CHAPTER 1

TERMS AND DEFINITIONS

1.1 "Shall" is used in the Annex to indicate a provision, the uniform application of which by all Parties is required in the interest of safety of life at sea.

1.2 "Should" is used in the Annex to indicate a provision, the uniform application of which by all Parties is recommended in the interest of safety of life at sea.

1.3 The terms listed below are used in the Annex with the following meanings:

.1 "Search and rescue region". An area of defined dimensions within which search and rescue services are provided.

.2 "Rescue co-ordination centre". A unit responsible for promoting efficient organization of search and rescue services and for co-ordinating the conduct of search and rescue operations within a search and rescue region.

.3 "Rescue sub-centre". A unit subordinate to a rescue co-ordination centre established to complement the latter within a specified area within a search and rescue region.

.4 "Coast watching unit". A land unit, stationary or mobile, designated to maintain a watch on the safety of vessels in coastal areas.

.5 "Rescue unit". A unit composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations.

.6 "On-scene commander". The commander of a rescue unit designated to co-ordinate search and rescue operations within a specified search area.

.7 "Co-ordinator surface search". A vessel, other than a rescue unit, designated to co-ordinate surface search and rescue operations within a specified search area.

.8 "Emergency phase". A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase.

.9 "Uncertainty phase". A situation wherein uncertainty exists as to the safety of a vessel and the persons on board.

.10 "Alert phase". A situation wherein apprehension exists as to the safety of a vessel and of the persons on board.

.11 "Distress phase". A situation wherein there is a reasonable certainty that a vessel or a person is threatened by grave and imminent danger and requires immediate assistance.

.12 "To ditch". In the case of an aircraft, to make a forced landing on water.

CHAPTER 2

ORGANIZATION

2.1 Arrangements for provision and co-ordination of search and rescue services

2.1.1 Parties shall ensure that necessary arrangements are made for the provision of adequate search and rescue services for persons in distress at sea round their coasts.

2.1.2 Parties shall forward to the Secretary-General information on their search and rescue organization and later alterations of importance, including:

.1 national maritime search and rescue services;

.2 location of established rescue co-ordination centres, their telephone and telex numbers and areas of responsibility; and

.3 principal available rescue units at their disposal.

2.1.3 The Secretary-General shall in a suitable way transmit to all Parties the information referred to in paragraph 2.1.2.

2.1.4 Each search and rescue region shall be established by agreement among Parties concerned. The Secretary-General shall be notified of such agreement.

2.1.5 In case agreement on the exact dimensions of a search and rescue region is not reached by the Parties concerned, those Parties shall use their best endeavours to reach agreement upon appropriate arrangements under which the equivalent overall co-ordination of search and rescue services is provided in the area. The Secretary-General shall be notified of such arrangements.

2.1.6 The Secretary-General shall notify all Parties of the agreements or arrangements referred to in paragraphs 2.1.4 and 2.1.5.

2.1.7 The delimitation of search and rescue regions is not related to and shall not prejudice the delimitation of any boundary between States.

2.1.8 Parties should arrange that their search and rescue services are able to give prompt response to distress calls.

2.1.9 On receiving information that a person is in distress at sea in an area within which a Party provides for the overall co-ordination of search and rescue operations, the responsible authorities of that Party shall take urgent steps to provide the most appropriate assistance available.

2.1.10 Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2.2 Co-ordination of search and rescue facilities

2.2.1 Parties shall make provision for the co-ordination of the facilities required to provide search and rescue services round their coasts.

2.2.2 Parties shall establish a national machinery for the overall co-ordination of search and rescue services.

2.3 Establishment of rescue co-ordination centres and rescue sub-centres

2.3.1 To meet the requirements of paragraphs 2.2.1 and 2.2.2 Parties shall establish rescue co-ordination centres for their search and rescue services and such rescue sub-centres as they consider appropriate.

2.3.2 The competent authorities of each Party shall determine the area for which a rescue sub-centre is responsible.

2.3.3. Each rescue co-ordination centre and rescue sub-centre established in accordance with paragraph 2.3.1 shall have adequate means for the receipt of distress communications via a coast radio station or otherwise. Every such centre and sub-centre shall also have adequate means for communication with its rescue units and with rescue co-ordination centres or rescue sub-centres, as appropriate, in adjacent areas.

2.4 Designation of rescue units

2.4.1 Parties shall designate either:

.1 as rescue units, State or other appropriate public or private services suitably located and equipped, or parts thereof; or

.2 as elements of the search and rescue organization, State or other appropriate public or private services or parts thereof, not suitable for designation as rescue units, but which are able to participate in search and rescue operations, and shall define the functions of those elements.

2.5 Facilities and equipment of rescue units

2.5.1 Each rescue unit shall be provided with facilities and equipment appropriate to its task.

2.5.2 Each rescue unit should have rapid and reliable means of communication with other units or elements engaged in the same operation.

2.5.3 Containers or packages containing survival equipment for dropping to survivors should have the general nature of their contents indicated by a colour code in accordance with paragraph 2.5.4 and by printed indication and self-explanatory symbols, to the extent that such symbols exist.

2.5.4 The colour identification of the contents of droppable containers and packages containing survival equipment should take the form of streamers coloured according to the following code:

.1 Red - medical supplies and first aid equipment;

.2 Blue - food and water;

.3 Yellow - blankets and protective clothing; and

.4 Black - miscellaneous equipment such as stoves, axes, compasses and cooking utensils.

2.5.5 Where supplies of a mixed nature are dropped in one container or package, the colour code should be used in combination.

2.5.6 Instructions on the use of the survival equipment should be enclosed in each of the droppable containers or packages. They should be printed in English and in at least two other languages.

CHAPTER 3

CO-OPERATION

3.1 Co-operation between States

3.1.1 Parties shall co-ordinate their search and rescue organizations and should, whenever necessary, co-ordinate search and rescue operations with those of neighbouring States.

3.1.2 Unless otherwise agreed between the States concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territorial sea or territory of rescue units of other Parties solely for the purpose of

searching for the position of maritime casualties and rescuing the survivors of such casualties. In such cases, search and rescue operations shall, as far as practicable, be coordinated by the appropriate rescue co-ordination centre of the Party which has authorized entry, or such other authority as has been designated by that Party.

3.1.3 Unless otherwise agreed between the States concerned, the authorities of a Party which wishes its rescue units to enter into or over the territorial sea or territory of another Party solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties, shall transmit a request, giving full details of the projected mission and the need for it, to the rescue co-ordination centre of that other Party, or to such other authority as has been designated by that Party.

3.1.4 The competent authorities of Parties shall:

.1 immediately acknowledge the receipt of such a request; and

.2 as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.

3.1.5 Parties should enter into agreements with neighbouring States setting forth the conditions for entry of each other's rescue units into or over their respective territorial sea or territory. These agreements should also provide for expediting entry of such units with the least possible formalities.

3.1.6 Each Party should authorize its rescue co-ordination centres:

.1 to request from other rescue co-ordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;

.2 to grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and

.3 to make the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.

3.1.7 Each Party should authorize its rescue co-ordination centres to provide, when requested, assistance to other rescue co-ordination centres, including assistance in the form of vessels, aircraft, personnel or equipment.

3.1.8 Parties should enter into search and rescue agreements with neighbouring States regarding the pooling of facilities, establishment of common procedures, conduct of joint training and exercises, regular checks of inter-State communication channels, liaison visits by rescue co-ordination centre personnel and the exchange of search and rescue information.

3.2 Co-ordination with aeronautical services

3.2.1 Parties shall ensure the closest practicable co-ordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their search and rescue regions.

3.2.2 Whenever practicable, each Party should establish joint rescue co-ordination centres and rescue sub-centres to serve both maritime and aeronautical purposes.

3.2.3 Whenever separate maritime and aeronautical rescue co-ordination centres or rescue sub-centres are established to serve the same area, the Party concerned shall ensure the closest practicable co-ordination between the centres or sub-centres.

3.2.4 Parties shall ensure as far as is possible the use of common procedures by rescue units established for maritime purposes and those established for aeronautical purposes.

CHAPTER 4

PREPARATORY MEASURES

4.1 Requirements for information

4.1.1 Each rescue co-ordination centre and rescue sub-centre shall have available up-to-date information relevant to search and rescue operations in its area including information regarding:

.1 rescue units and coast watching units;

.2 any other public and private resources, including transportation facilities and fuel supplies, that are likely to be useful in search and rescue operations;

.3 means of communication that may be used in search and rescue operations;

.4 names, cable and telex addresses, telephone and telex numbers of shipping agents, consular authorities, international organizations and other agencies who may be able to assist in obtaining vital information on vessels;

.5 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all radio stations likely to be employed in search and rescue operations;

.6 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all coast radio stations disseminating meteorological forecasts and warnings for the search and rescue region;

.7 the locations and hours of watch of services keeping radio watch and the frequencies guarded;

.8 objects likely to be mistaken for unlocated or unreported wreckage; and

.9 locations where supplies of droppable emergency survival equipment are stored.

4.1.2 Each rescue co-ordination centre and rescue sub-centre should have ready access to information regarding the position, course, speed and call sign or ship station identity of vessels within its area which may be able to provide assistance to vessels or persons in distress at sea. This information shall either be kept in the rescue co-ordination centre or be readily obtainable when necessary.

4.1.3 A large-scale map shall be provided at each rescue co-ordination centre and rescue sub-centre for the purpose of displaying and plotting information relevant to search and rescue operations in its area.

4.2 Operating plans or instructions

4.2.1 Each rescue co-ordination centre and rescue sub-centre shall prepare or have available detailed plans or instructions for the conduct of search and rescue operations in its area.

4.2.2. The plans or instructions shall specify arrangements for the servicing and refuelling, to the extent possible, of vessels, aircraft and vehicles employed in search and rescue operations, including those made available by other States.

4.2.3 The plans or instructions should contain details regarding action to be taken by those engaged in search and rescue operations in the area, including:

.1 the manner in which search and rescue operations are to be conducted;

.2 the use of available communications systems and facilities;

.3 the action to be taken jointly with other rescue co-ordination centres or rescue sub-centres, as appropriate;

.4 the methods of altering vessels at sea and en route aircraft;

.5 the duties and authority of personnel assigned to search and rescue operations;

.6 possible redeployment of equipment that may be necessitated by meteorological or other conditions;

.7 the methods of obtaining essential information relevant to search and rescue operations, such as appropriate notices to mariners and reports and forecasts of weather and sea surface conditions;

.8 the methods of obtaining from other rescue co-ordination centres or rescue sub-centres, as appropriate, such assistance as may be needed, including vessels, aircraft, personnel and equipment;

.9 the methods of assisting rescue vessels or other vessels to rendezvous with vessels in distress; and

.10 the methods of assisting distressed aircraft compelled to ditch to rendezvous with surface craft.

4.3 Preparedness of rescue units

4.3.1 Each designated rescue unit shall maintain a state of preparedness commensurate with its task and should keep the appropriate rescue co-ordination centre or rescue sub-centre informed of its state of preparedness.

CHAPTER 5

OPERATING PROCEDURES

5.1 Information concerning emergencies

5.1.1 Parties shall ensure that such continuous radio watches as are deemed practicable and necessary, are maintained on international distress frequencies. A coast radio station receiving any distress call or message shall:

.1 immediately inform the appropriate rescue co-ordination centre or rescue sub-centre;

.2 rebroadcast to the extent necessary to inform ships on one or more of the international distress frequencies or on any other appropriate frequency;

.3 precede such rebroadcasts with the appropriate automatic alarm signals unless this has already been done; and

.4 take such subsequent action as decided by the competent authority.

5.1.2 Any authority or element of the search and rescue organization having reason to believe that a vessel is in a state of emergency should give as soon as possible all available information to the rescue co-ordination centre or rescue sub-centre concerned.

5.1.3 Rescue co-ordination centres and rescue sub-centres shall, immediately upon receipt of information concerning a vessel in a state of emergency, evaluate such information and determine the phase of emergency in accordance with paragraph 5.2 and the extent of operation required.

5.2 Emergency phases

5.2.1 For operations purposes, the following emergency phases shall be distinguished:

.1 Uncertainty phase:

.1.1 when a vessel has been reported overdue at its destination; or

.1.2 when a vessel has failed to make an expected position or safety report.

.2 Alert phase:

.2.1 when, following the uncertainty phase, attempts to establish contact with the vessel have failed and inquiries addressed to other appropriate sources have been unsuccessful; or

.2.2 when information has been received indicating that the operating efficiency of a vessel is impaired but not to the extent that a distress situation is likely.

.3 Distress phase:

.3.1 when positive information is received that a vessel or a person is in grave and imminent danger and in need of immediate assistance; or

.3.2 when, following the alert phase, further unsuccessful attempts to establish contact with the vessel and more widespread unsuccessful inquiries point to the probability that the vessel is in distress; or

.3.3 when information is received which indicates that the operating efficiency of a vessel has been impaired to the extent that a distress situation is likely.

5.3 Procedures for rescue co-ordination centres and rescue sub-centres during emergency phases

5.3.1 Upon the declaration of the uncertainty phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall initiate inquiries in order to determine the safety of the vessel or shall declare the alert phase.

5.3.2 Upon the declaration of the alert phase, the rescue co-ordination centre or rescue

sub-centre, as appropriate, shall extend the inquiries for the missing vessel, alert appropriate search and rescue services and initiate such action, as described in paragraph 5.3.3, as is necessary in the light of the circumstances of the particular case.

5.3.3 Upon the declaration of the distress phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall:

- .1 initiate action in accordance with the arrangements set out in paragraph 4.2;
- .2 where appropriate, estimate the degree of uncertainty of the vessel's position and determine the extent of any area to be searched;
- .3 notify the owner of the vessel or his agent if possible and keep him informed of developments;
- .4 notify other rescue co-ordination centres or rescue sub-centres, the help of which seems likely to be required or which may be concerned in the operation;
- .5 request at an early stage any help which might be available from aircraft, vessels or services not specifically included in the search and rescue organization, considering that, in the majority of distress situations in ocean areas, other vessels in the vicinity are important elements for search and rescue operations;
- .6 draw up a broad plan for the conduct of the operations from the information available and communicate such plan to the authorities designated in accordance with paragraphs 5.7 and 5.8 for their guidance;
- .7 amend as necessary in the light of circumstances the guidance already given in paragraph 5.3.3.6;
- .8 notify the consular or diplomatic authorities concerned or, if the incident involves a refugee or displaced person, the office of the competent international organization;
- .9 notify accident investigation authorities as appropriate; and
- .10 notify any aircraft, vessel or other services mentioned in paragraph 5.3.3.5 in consultation with the authorities designated in accordance with paragraph 5.7 or 5.8, as appropriate, when their assistance is no longer required.

5.3.4 Initiation of search and rescue operations in respect of a vessel whose position is unknown

5.3.4.1 In the event of an emergency phase being declared in respect of a vessel whose position is unknown, the following shall apply:

.1 when a rescue co-ordination centre or rescue sub-centre is notified of the existence of an emergency phase and is unaware of other centres taking appropriate action, it shall assume responsibility for initiating suitable action and confer with neighbouring centres with the objective of designating one centre to assume responsibility forthwith;

.2 unless otherwise decided by agreement between the centres concerned, the centre to be designated shall be the centre responsible for the area in which the vessel was according to its last reported position; and

.3 after the declaration of the distress phase, the centre co-ordinating the search and rescue operations shall, if necessary, inform other appropriate centres of all the circumstances of the state of emergency and of all subsequent developments.

5.3.5 Passing information to vessels in respect of which an emergency phase has been declared

5.3.5.1 Whenever applicable, the rescue co-ordination centre or rescue sub-centre responsible for search and rescue operations shall be responsible for passing to the vessel for which an emergency phase has been declared, information on the search and rescue operation it has initiated.

5.4 Co-ordination when two or more parties are involved

5.4.1 Where the conduct of operations over the entire search and rescue region is that responsibility of more than one Party, each Party shall take appropriate action in accordance with the operating plans or instructions referred to in paragraph 4.2 when so requested by the rescue co-ordination centre of the region.

5.5 Termination and suspension of search and rescue operations

5.5.1 Uncertainty phase and alert phase

5.5.1.1 When during an uncertainty phase or an alert phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed that the emergency no longer exists, it shall so inform any authority, unit or service which has been activated or notified.

5.5.2 Distress phase

5.5.2.1 When during a distress phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed by the vessel in distress or other appropriate sources that the emergency no longer exists, it shall take the necessary action to terminate the search and rescue operations and to inform any authority, unit or service which has been activated or notified.

5.5.2.2 If during a distress phase it has been determined that the search should be discontinued the rescue co-ordination centre or rescue sub-centre, as appropriate, shall suspend the search and rescue operations and so inform any authority, unit or service which has been activated or notified. Information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.

5.5.2.3 If during a distress phase it has been determined that further search would be of no avail, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall terminate the search and rescue operations and so inform any authority, unit or service which has been activated or notified.

5.6 On-scene co-ordination of search and rescue activities

5.6.1 The activities of units engaged in search and rescue operations, whether they be rescue units or other assisting units, shall be co-ordinated to ensure the most effective results.

5.7 Designation of on-scene commander and his responsibilities

5.7.1 When rescue units are about to engage in search and rescue operations, one of them should be designated on-scene commander as early as practicable and preferably before arrival within the specified search area.

5.7.2 The appropriate rescue co-ordination centre or rescue sub-centre should designate an on-scene commander. If this is not practicable, the units involved should designate by mutual agreement an on-scene commander.

5.7.3 Until such time as an on-scene commander has been designated, the first rescue unit arriving at the scene of action should automatically assume the duties and responsibilities of an on-scene commander.

5.7.4 An on-scene commander shall be responsible for the following tasks when these have not been performed by the responsible rescue co-ordination centre or rescue sub-centre, as appropriate:

.1 determining the probable position of the object of the search, the probable margin of error in this position, and the search area;

.2 making arrangements for the separation for safety purposes of units engaged in the search;

.3 designating appropriate search patterns for the units participating in the search and assigning search areas to units or groups of units;

.4 designating appropriate units to effect rescue when the object of the search is located;
and

.5 co-ordinating on-scene search and rescue communications.

5.7.5 An on-scene commander shall also be responsible for the following:

.1 making periodic reports to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations; and

.2 reporting the number and the names of survivors to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations, providing the centre with the names and destinations of units with survivors aboard, reporting which survivors are in each unit and requesting additional assistance from the centre when necessary, for example, medical evacuation of seriously injured survivors.

5.8 Designation of co-ordinator surface search and his responsibilities

5.8.1 If rescue units (including warships) are not available to assume the duties of an on-scene commander but a number of merchant vessels or other vessels are participating in the search and rescue operations, one of them should be designated by mutual agreement as co-ordinator surface search.

5.8.2 The co-ordinator surface search should be designated as early as practicable and preferably before arrival within the specified search area.

5.8.3 The co-ordinator surface search should be responsible for as many of the tasks listed in paragraphs 5.7.4 and 5.7.5 as the vessel is capable of performing.

5.9 Initial action

5.9.1 Any unit receiving information of a distress incident shall take whatever immediate action to assist as is within its capability or shall alert other units which might be able to assist and shall notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

5.10 Search areas

5.10.1 Search areas determined in accordance with paragraph 5.3.3.2, 5.7.4.1 or 5.8.3 may be altered as appropriate by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.11 Search patterns

5.11.1 Search patterns designated in accordance with paragraph 5.3.3.6, 5.7.4.3 or 5.8.3 may be changed to other patterns if considered necessary by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.12 Search successful

5.12.1 When the search has been successful the on-scene commander or the co-ordinator surface search should direct the most suitably equipped units to conduct the rescue or to provide other necessary assistance.

5.12.2 Where appropriate the units conducting the rescue should notify the on-scene commander or the co-ordinator surface search of the number and names of survivors aboard, whether all personnel have been accounted for and whether additional assistance is required, for example, medical evacuations, and the destination of the units.

5.12.3 The on-scene commander or the co-ordinator surface search should immediately notify the rescue co-ordination centre or rescue sub-centre when the search has been successful.

5.13 Search unsuccessful

5.13.1 The search should only be terminated when there is no longer any reasonable hope of rescuing survivors.

5.13.2 The rescue co-ordination centre or rescue sub-centre co-ordinating the search and rescue operations should normally be responsible for terminating the search.

5.13.3 In remote ocean areas not under the responsibility of a rescue co-ordination centre or where the responsible centre is not in a position to co-ordinate the search and rescue operations, the on-scene commander or the co-ordinator surface search may take responsibility for terminating the search.

CHAPTER 6

SHIP REPORTING SYSTEMS

6.1 General

6.1.1 Parties should establish a ship reporting system for application within any search and rescue region for which they are responsible, where this is considered necessary to facilitate search and rescue operations and is deemed practicable.

6.1.2 Parties contemplating the institution of a ship reporting system should take account of the relevant recommendations of the Organization.

6.1.3 The ship reporting system should provide up-to-date information on the movements of vessels in order, in the event of a distress incident:

.1 to reduce the interval between the loss of contact with a vessel and the initiation of search and rescue operations in cases where no distress signal has been received;

.2 to permit rapid determination of vessels which may be called upon to provide assistance;

.3 to permit delineation of a search area of limited size in case the position of a vessel in distress is unknown or uncertain; and

.4 to facilitate the provision of urgent medical assistance or advice to vessels not carrying a doctor.

6.2 Operational requirements

6.2.1 To achieve the objectives set out in paragraph 6.1.3, the ship reporting system should satisfy the following operational requirements:

.1 provision of information, including sailing plans and position reports, which would make it possible to predict the future positions of participating vessels;

.2 maintenance of a shipping plot;

.3 receipt of reports at appropriate intervals from participating vessels;

.4 simplicity in system design and operation; and

.5 use of an internationally agreed standard ship reporting format and internationally agreed standard procedures.

6.3 Types of reports

6.3.1 A ship reporting system should incorporate the following reports:

.1 Sailing plan - giving name, call sign or ship station identity, date and time (in GMT) of departure, details of the vessel's point of departure, next port of call, intended route, speed and expected date and time (in GMT) of arrival. Significant changes should be reported as soon as possible.

.2 Position report - giving name, call sign or ship station identity, date and time (in GMT), position, course and speed.

.3 Final report - giving name, call sign or ship station identity, date and time (in GMT) of arrival at destination or of leaving the area covered by the system.

6.4 Use of systems

6.4.1 Parties should encourage all vessels to report their positions when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

6.4.2 Parties recording information on the position of vessels should disseminate, so far as practicable, such information to other States when so requested for search and rescue purposes.

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1678 U.N.T.S. 221, 27 I.L.M. 668 (1988), entered into force March 1, 1992.

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation

Signed at Rome, 10 March 1988

The states parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

Recognizing in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Deeply concerned about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Considering that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Being Convinced of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

Recalling resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, inter alia, "urges all States unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security",

Recalling further that resolution 40/61 "unequivocally condemns, as criminal) all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security",

Recalling also that by resolution 40/61, the International Maritime Organization was invited to "study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures",

Having in mind resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

Noting that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

Affirming the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

Affirming further that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Recognizing the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

Have agreed as follows:

ARTICLE 1

For the purposes of this Convention, "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

ARTICLE 2

1. This Convention does not apply to:
 - a warship; or
 - a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
 - a ship which has been withdrawn from navigation or laid up.

2. Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

ARTICLE 3

1. Any person commits an offence if that person unlawfully and intentionally:
 - seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
 - performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
 - destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
 - places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
 - destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
 - communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or
 - injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).
2. Any person also commits an offence if that person:
 - attempts to commit any of the offences set forth in paragraph 1; or
 - abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
 - threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

ARTICLE 4

1. This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.
2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

ARTICLE 5

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

ARTICLE 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:
 - against or on board a ship flying the flag of the State at the time the offence is committed; or
 - in the territory of that State, including its territorial sea; or
 - by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - it is committed by a stateless person whose habitual residence is in that State; or
 - during its commission a national of that State is seized, threatened, injured or killed; or
 - it is committed in an attempt to compel that State to do or abstain from doing any act.
3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Secretary-General"). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.
4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.
5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 7

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts, in accordance

with its own legislation.

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:
 - communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;
 - be visited by a representative of that State.
4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.
5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 8

1. The master of a ship of a State Party (the "flag State") may deliver to the authorities of any other State Party (the "receiving State") any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.
2. The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.
3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 1. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.
4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.
5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it

shall furnish the receiving State with a statement of the reasons therefor.

ARTICLE 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

ARTICLE 10

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.
2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

ARTICLE 11

1. The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.
4. If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.
5. A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 7 and which decides not to

prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6. In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.
7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

ARTICLE 12

1. State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

ARTICLE 13

1. States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:
 - taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;
 - exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.
2. When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

ARTICLE 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

ARTICLE 15

1. Each State Party shall, in accordance with its national law) provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:
 - the circumstances of the offence;
 - the action taken pursuant to article 13, paragraph 2;
 - the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.
2. The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.
3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the International Maritime Organization (hereinafter referred to as "the Organization"), to the other States concerned, and to the appropriate international intergovernmental organizations.

ARTICLE 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.
3. Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General.

ARTICLE 17

1. This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the Headquarters of the Organization by all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
 - signature without reservation as to ratification, acceptance or approval; or
 - signature subject to ratification, acceptance or approval, followed by ratification,

- acceptance or approval; or
- accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

ARTICLE 18

1. This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.
2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

ARTICLE 19

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

ARTICLE 20

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

ARTICLE 21

1. This Convention shall be deposited with the Secretary-General.
2. The Secretary-General shall:
 - inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

- each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
 - the date of the entry into force of this Convention;
 - the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
 - the receipt of any declaration or notification made under this Convention;
 - transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

Done at Rome this tenth day of March one thousand nine hundred and eighty-eight.



INTERNATIONAL CONFERENCE ON
BALLAST WATER MANAGEMENT FOR
SHIPS

Agenda item 8

BWM/CONF/36
16 February 2004
Original: ENGLISH

**ADOPTION OF THE FINAL ACT AND ANY INSTRUMENTS, RECOMMENDATIONS
AND RESOLUTIONS RESULTING FROM THE WORK OF THE CONFERENCE**

**INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF
SHIPS' BALLAST WATER AND SEDIMENTS, 2004**

Text adopted by the Conference

- 1 As a result of its deliberations, as recorded in the Record of Decisions of the Plenary (BWM/CONF/RD/2/Rev.1) and the Final Act of the Conference (BWM/CONF/37), the Conference adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004.

- 2 The above-mentioned Convention, as adopted by the Conference, is annexed hereto.

For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

ANNEX

INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS, 2004**THE PARTIES TO THIS CONVENTION,**

RECALLING Article 196(1) of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides that “States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto,”

NOTING the objectives of the 1992 Convention on Biological Diversity (CBD) and that the transfer and introduction of Harmful Aquatic Organisms and Pathogens via ships' ballast water threatens the conservation and sustainable use of biological diversity as well as decision IV/5 of the 1998 Conference of the Parties (COP 4) to the CBD concerning the conservation and sustainable use of marine and coastal ecosystems, as well as decision VI/23 of the 2002 Conference of the Parties (COP 6) to the CBD on alien species that threaten ecosystems, habitats or species, including guiding principles on invasive species,

NOTING FURTHER that the 1992 United Nations Conference on Environment and Development (UNCED) requested the International Maritime Organization (the Organization) to consider the adoption of appropriate rules on ballast water discharge,

MINDFUL of the precautionary approach set out in Principle 15 of the Rio Declaration on Environment and Development and referred to in resolution MEPC.67(37), adopted by the Organization's Marine Environment Protection Committee on 15 September 1995,

ALSO MINDFUL that the 2002 World Summit on Sustainable Development, in paragraph 34(b) of its Plan of Implementation, calls for action at all levels to accelerate the development of measures to address invasive alien species in ballast water,

CONSCIOUS that the uncontrolled discharge of Ballast Water and Sediments from ships has led to the transfer of Harmful Aquatic Organisms and Pathogens, causing injury or damage to the environment, human health, property and resources,

RECOGNIZING the importance placed on this issue by the Organization through Assembly resolutions A.774(18) in 1993 and A.868(20) in 1997, adopted for the purpose of addressing the transfer of Harmful Aquatic Organisms and Pathogens,

RECOGNIZING FURTHER that several States have taken individual action with a view to prevent, minimize and ultimately eliminate the risks of introduction of Harmful Aquatic Organisms and Pathogens through ships entering their ports, and also that this issue, being of worldwide concern, demands action based on globally applicable regulations together with guidelines for their effective implementation and uniform interpretation,

DESIRING to continue the development of safer and more effective Ballast Water Management options that will result in continued prevention, minimization and ultimate elimination of the transfer of Harmful Aquatic Organisms and Pathogens,

RESOLVED to prevent, minimize and ultimately eliminate the risks to the environment, human health, property and resources arising from the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships' Ballast Water and Sediments, as well as to avoid unwanted side-effects from that control and to encourage developments in related knowledge and technology,

CONSIDERING that these objectives may best be achieved by the conclusion of an International Convention for the Control and Management of Ships' Ballast Water and Sediments,

HAVE AGREED as follows:

Article 1 *Definitions*

For the purpose of this Convention, unless expressly provided otherwise:

- 1 "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of its natural resources, including Floating Storage Units (FSUs) and Floating Production Storage and Offloading Units (FPSOs), the Administration is the Government of the coastal State concerned.
- 2 "Ballast Water" means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship.
- 3 "Ballast Water Management" means mechanical, physical, chemical, and biological processes, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of Harmful Aquatic Organisms and Pathogens within Ballast Water and Sediments.
- 4 "Certificate" means the International Ballast Water Management Certificate.
- 5 "Committee" means the Marine Environment Protection Committee of the Organization.
- 6 "Convention" means the International Convention for the Control and Management of Ships' Ballast Water and Sediments.
- 7 "Gross tonnage" means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969 or any successor Convention.

8 “Harmful Aquatic Organisms and Pathogens” means aquatic organisms or pathogens which, if introduced into the sea including estuaries, or into fresh water courses, may create hazards to the environment, human health, property or resources, impair biological diversity or interfere with other legitimate uses of such areas.

9 “Organization” means the International Maritime Organization.

10 “Secretary-General” means the Secretary-General of the Organization.

11 “Sediments” means matter settled out of Ballast Water within a ship.

12 “Ship” means a vessel of any type whatsoever operating in the aquatic environment and includes submersibles, floating craft, floating platforms, FSUs and FPSOs.

Article 2 *General Obligations*

1 Parties undertake to give full and complete effect to the provisions of this Convention and the Annex thereto in order to prevent, minimize and ultimately eliminate the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships’ Ballast Water and Sediments.

2 The Annex forms an integral part of this Convention. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Annex.

3 Nothing in this Convention shall be interpreted as preventing a Party from taking, individually or jointly with other Parties, more stringent measures with respect to the prevention, reduction or elimination of the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships’ Ballast Water and Sediments, consistent with international law.

4 Parties shall endeavour to co-operate for the purpose of effective implementation, compliance and enforcement of this Convention.

5 Parties undertake to encourage the continued development of Ballast Water Management and standards to prevent, minimize and ultimately eliminate the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships’ Ballast Water and Sediments.

6 Parties taking action pursuant to this Convention shall endeavour not to impair or damage their environment, human health, property or resources, or those of other States.

7 Parties should ensure that Ballast Water Management practices used to comply with this Convention do not cause greater harm than they prevent to their environment, human health, property or resources, or those of other States.

8 Parties shall encourage ships entitled to fly their flag, and to which this Convention applies, to avoid, as far as practicable, the uptake of Ballast Water with potentially Harmful Aquatic Organisms and Pathogens, as well as Sediments that may contain such organisms, including promoting the adequate implementation of recommendations developed by the Organization.

9 Parties shall endeavour to co-operate under the auspices of the Organization to address threats and risks to sensitive, vulnerable or threatened marine ecosystems and biodiversity in areas beyond the limits of national jurisdiction in relation to Ballast Water Management.

Article 3 *Application*

1 Except as expressly provided otherwise in this Convention, this Convention shall apply to:

- (a) ships entitled to fly the flag of a Party; and
- (b) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.

2 This Convention shall not apply to:

- (a) ships not designed or constructed to carry Ballast Water;
- (b) ships of a Party which only operate in waters under the jurisdiction of that Party, unless the Party determines that the discharge of Ballast Water from such ships would impair or damage their environment, human health, property or resources, or those of adjacent or other States;
- (c) ships of a Party which only operate in waters under the jurisdiction of another Party, subject to the authorization of the latter Party for such exclusion. No Party shall grant such authorization if doing so would impair or damage their environment, human health, property or resources, or those of adjacent or other States. Any Party not granting such authorization shall notify the Administration of the ship concerned that this Convention applies to such ship;
- (d) ships which only operate in waters under the jurisdiction of one Party and on the high seas, except for ships not granted an authorization pursuant to sub-paragraph (c), unless such Party determines that the discharge of Ballast Water from such ships would impair or damage their environment, human health, property or resources, or those of adjacent of other States;
- (e) any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention; and
- (f) permanent Ballast Water in sealed tanks on ships, that is not subject to discharge.

3 With respect to ships of non-Parties to this Convention, Parties shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

Article 4 *Control of the Transfer of Harmful Aquatic Organisms and Pathogens Through Ships' Ballast Water and Sediments*

1 Each Party shall require that ships to which this Convention applies and which are entitled to fly its flag or operating under its authority comply with the requirements set forth in this Convention, including the applicable standards and requirements in the Annex, and shall take effective measures to ensure that those ships comply with those requirements.

2 Each Party shall, with due regard to its particular conditions and capabilities, develop national policies, strategies or programmes for Ballast Water Management in its ports and waters under its jurisdiction that accord with, and promote the attainment of the objectives of this Convention.

Article 5 *Sediment Reception Facilities*

1 Each Party undertakes to ensure that, in ports and terminals designated by that Party where cleaning or repair of ballast tanks occurs, adequate facilities are provided for the reception of Sediments, taking into account the Guidelines developed by the Organization. Such reception facilities shall operate without causing undue delay to ships and shall provide for the safe disposal of such Sediments that does not impair or damage their environment, human health, property or resources or those of other States.

2 Each Party shall notify the Organization for transmission to the other Parties concerned of all cases where the facilities provided under paragraph 1 are alleged to be inadequate.

Article 6 *Scientific and Technical Research and Monitoring*

1 Parties shall endeavour, individually or jointly, to:

- (a) promote and facilitate scientific and technical research on Ballast Water Management; and
- (b) monitor the effects of Ballast Water Management in waters under their jurisdiction.

Such research and monitoring should include observation, measurement, sampling, evaluation and analysis of the effectiveness and adverse impacts of any technology or methodology as well as any adverse impacts caused by such organisms and pathogens that have been identified to have been transferred through ships' Ballast Water.

2 Each Party shall, to further the objectives of this Convention, promote the availability of relevant information to other Parties who request it on:

- (a) scientific and technology programmes and technical measures undertaken with respect to Ballast Water Management; and
- (b) the effectiveness of Ballast Water Management deduced from any monitoring and assessment programmes.

Article 7 *Survey and certification*

1 Each Party shall ensure that ships flying its flag or operating under its authority and subject to survey and certification are so surveyed and certified in accordance with the regulations in the Annex.

2 A Party implementing measures pursuant to Article 2.3 and Section C of the Annex shall not require additional survey and certification of a ship of another Party, nor shall the Administration of the ship be obligated to survey and certify additional measures imposed by another Party. Verification of such additional measures shall be the responsibility of the Party implementing such measures and shall not cause undue delay to the ship.

Article 8 *Violations*

1 Any violation of the requirements of this Convention shall be prohibited and sanctions shall be established under the law of the Administration of the ship concerned, wherever the violation occurs. If the Administration is informed of such a violation, it shall investigate the matter and may request the reporting Party to furnish additional evidence of the alleged violation. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law. The Administration shall promptly inform the Party that reported the alleged violation, as well as the Organization, of any action taken. If the Administration has not taken any action within 1 year after receiving the information, it shall so inform the Party which reported the alleged violation.

2 Any violation of the requirements of this Convention within the jurisdiction of any Party shall be prohibited and sanctions shall be established under the law of that Party. Whenever such a violation occurs, that Party shall either:

- (a) cause proceedings to be taken in accordance with its law; or
- (b) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

3 The sanctions provided for by the laws of a Party pursuant to this Article shall be adequate in severity to discourage violations of this Convention wherever they occur.

Article 9 *Inspection of Ships*

1 A ship to which this Convention applies may, in any port or offshore terminal of another Party, be subject to inspection by officers duly authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention. Except as provided in paragraph 2 of this Article, any such inspection is limited to:

- (a) verifying that there is onboard a valid Certificate, which, if valid shall be accepted; and
- (b) inspection of the Ballast Water record book, and/or

- (c) a sampling of the ship's Ballast Water, carried out in accordance with the guidelines to be developed by the Organization. However, the time required to analyse the samples shall not be used as a basis for unduly delaying the operation, movement or departure of the ship.

2 Where a ship does not carry a valid Certificate or there are clear grounds for believing that:

- (a) the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate; or
- (b) the master or the crew are not familiar with essential shipboard procedures relating to Ballast Water Management, or have not implemented such procedures;

a detailed inspection may be carried out.

3 In the circumstances given in paragraph 2 of this Article, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not discharge Ballast Water until it can do so without presenting a threat of harm to the environment, human health, property or resources.

Article 10 *Detection of Violations and Control of Ships*

1 Parties shall co-operate in the detection of violations and the enforcement of the provisions of this Convention.

2 If a ship is detected to have violated this Convention, the Party whose flag the ship is entitled to fly, and/or the Party in whose port or offshore terminal the ship is operating, may, in addition to any sanctions described in Article 8 or any action described in Article 9, take steps to warn, detain, or exclude the ship. The Party in whose port or offshore terminal the ship is operating, however, may grant such a ship permission to leave the port or offshore terminal for the purpose of discharging Ballast Water or proceeding to the nearest appropriate repair yard or reception facility available, provided doing so does not present a threat of harm to the environment, human health, property or resources.

3 If the sampling described in Article 9.1(c) leads to a result, or supports information received from another port or offshore terminal, indicating that the ship poses a threat to the environment, human health, property or resources, the Party in whose waters the ship is operating shall prohibit such ship from discharging Ballast Water until the threat is removed.

4 A Party may also inspect a ship when it enters the ports or offshore terminals under its jurisdiction, if a request for an investigation is received from any Party, together with sufficient evidence that a ship is operating or has operated in violation of a provision in this Convention. The report of such investigation shall be sent to the Party requesting it and to the competent authority of the Administration of the ship concerned so that appropriate action may be taken.

Article 11 *Notification of Control Actions*

1 If an inspection conducted pursuant to Article 9 or 10 indicates a violation of this Convention, the ship shall be notified. A report shall be forwarded to the Administration, including any evidence of the violation.

2 In the event that any action is taken pursuant to Article 9.3, 10.2 or 10.3, the officer carrying out such action shall forthwith inform, in writing, the Administration of the ship concerned, or if this is not possible, the consul or diplomatic representative of the ship concerned, of all the circumstances in which the action was deemed necessary. In addition, the recognized organization responsible for the issue of certificates shall be notified.

3 The port State authority concerned shall, in addition to parties mentioned in paragraph 2, notify the next port of call of all relevant information about the violation, if it is unable to take action as specified in Article 9.3, 10.2 or 10.3 or if the ship has been allowed to proceed to the next port of call.

Article 12 *Undue Delay to Ships*

1 All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 7.2, 8, 9 or 10.

2 When a ship is unduly detained or delayed under Article 7.2, 8, 9 or 10, it shall be entitled to compensation for any loss or damage suffered.

Article 13 *Technical Assistance, Co-operation and Regional Co-operation*

1 Parties undertake, directly or through the Organization and other international bodies, as appropriate, in respect of the control and management of ships' Ballast Water and Sediments, to provide support for those Parties which request technical assistance:

- (a) to train personnel;
- (b) to ensure the availability of relevant technology, equipment and facilities;
- (c) to initiate joint research and development programmes; and
- (d) to undertake other action aimed at the effective implementation of this Convention and of guidance developed by the Organization related thereto.

2 Parties undertake to co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology in respect of the control and management of ships' Ballast Water and Sediments.

3 In order to further the objectives of this Convention, Parties with common interests to protect the environment, human health, property and resources in a given geographical area, in particular, those Parties bordering enclosed and semi-enclosed seas, shall endeavour, taking into account characteristic regional features, to enhance regional co-operation, including through the conclusion of regional agreements consistent with this Convention. Parties shall seek to co-operate with the Parties to regional agreements to develop harmonized procedures.

Article 14 *Communication of information*

1 Each Party shall report to the Organization and, where appropriate, make available to other Parties the following information:

- (a) any requirements and procedures relating to Ballast Water Management, including its laws, regulations, and guidelines for implementation of this Convention;
- (b) the availability and location of any reception facilities for the environmentally safe disposal of Ballast Water and Sediments; and
- (c) any requirements for information from a ship which is unable to comply with the provisions of this Convention for reasons specified in regulations A-3 and B-4 of the Annex.

2 The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under subparagraphs 1(b) and (c) of this Article.

Article 15 *Dispute Settlement*

Parties shall settle any dispute between them concerning the interpretation or application of this Convention by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice.

Article 16 *Relationship to International Law and Other Agreements*

Nothing in this Convention shall prejudice the rights and obligations of any State under customary international law as reflected in the United Nations Convention on the Law of the Sea.

Article 17 *Signature, Ratification, Acceptance, Approval and Accession*

1 This Convention shall be open for signature by any State at the Headquarters of the Organization from 1 June 2004 to 31 May 2005 and shall thereafter remain open for accession by any State.

2 States may become Parties to the Convention by:

- (a) signature not subject to ratification, acceptance, or approval; or
- (b) signature subject to ratification, acceptance, or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 If a State comprises two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval, or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

5 Any such declaration shall be notified to the Depositary in writing and shall state expressly the territorial unit or units to which this Convention applies.

Article 18 *Entry into Force*

1 This Convention shall enter into force twelve months after the date on which not less than thirty States, the combined merchant fleets of which constitute not less than thirty-five percent of the gross tonnage of the world's merchant shipping, have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession in accordance with Article 17.

2 For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met, but prior to the date of entry in force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or three months after the date of deposit of instrument, whichever is the later date.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date on which this Convention enters into force shall take effect three months after the date of deposit.

4 After the date on which an amendment to this Convention is deemed to have been accepted under Article 19, any instrument of ratification, acceptance, approval or accession deposited shall apply to this Convention as amended.

Article 19 *Amendments*

1 This Convention may be amended by either of the procedures specified in the following paragraphs.

2 Amendments after consideration within the Organization:

- (a) Any Party may propose an amendment to this Convention. A proposed amendment shall be submitted to the Secretary-General, who shall then circulate it to the Parties and Members of the Organization at least six months prior to its consideration.
- (b) An amendment proposed and circulated as above shall be referred to the Committee for consideration. Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Committee for consideration and adoption of the amendment.

- (c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Committee, on condition that at least one-third of the Parties shall be present at the time of voting.
- (d) Amendments adopted in accordance with subparagraph (c) shall be communicated by the Secretary-General to the Parties for acceptance.
- (e) An amendment shall be deemed to have been accepted in the following circumstances:
 - (i) An amendment to an article of this Convention shall be deemed to have been accepted on the date on which two-thirds of the Parties have notified the Secretary-General of their acceptance of it.
 - (ii) An amendment to the Annex shall be deemed to have been accepted at the end of twelve months after the date of adoption or such other date as determined by the Committee. However, if by that date more than one-third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.
- (f) An amendment shall enter into force under the following conditions:
 - (i) An amendment to an article of this Convention shall enter into force for those Parties that have declared that they have accepted it six months after the date on which it is deemed to have been accepted in accordance with subparagraph (e)(i).
 - (ii) An amendment to the Annex shall enter into force with respect to all Parties six months after the date on which it is deemed to have been accepted, except for any Party that has:
 - (1) notified its objection to the amendment in accordance with subparagraph (e)(ii) and that has not withdrawn such objection; or
 - (2) notified the Secretary-General, prior to the entry into force of such amendment, that the amendment shall enter into force for it only after a subsequent notification of its acceptance.
- (g)
 - (i) A Party that has notified an objection under subparagraph (f)(ii)(1) may subsequently notify the Secretary-General that it accepts the amendment. Such amendment shall enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.
 - (ii) If a Party that has made a notification referred to in subparagraph (f)(ii)(2) notifies the Secretary-General of its acceptance with respect to an amendment, such amendment shall enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.

3 Amendment by a Conference:

- (a) Upon the request of a Party concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to consider amendments to this Convention.
- (b) An amendment adopted by such a Conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General to all Parties for acceptance.
- (c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraphs 2(e) and (f) respectively.

4 Any Party that has declined to accept an amendment to the Annex shall be treated as a non-Party only for the purpose of application of that amendment.

5 Any notification under this Article shall be made in writing to the Secretary-General.

6 The Secretary-General shall inform the Parties and Members of the Organization of:

- (a) any amendment that enters into force and the date of its entry into force generally and for each Party; and
- (b) any notification made under this Article.

Article 20 *Denunciation*

1 This Convention may be denounced by any Party at any time after the expiry of two years from the date on which this Convention enters into force for that Party.

2 Denunciation shall be effected by written notification to the Depositary, to take effect one year after receipt or such longer period as may be specified in that notification.

Article 21 *Depositary*

1 This Convention shall be deposited with the Secretary-General, who shall transmit certified copies of this Convention to all States which have signed this Convention or acceded thereto.

2 In addition to the functions specified elsewhere in this Convention, the Secretary-General shall:

- (a) inform all States that have signed this Convention, or acceded thereto, of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
 - (ii) the date of entry into force of this Convention; and

- (iii) the deposit of any instrument of denunciation from the Convention, together with the date on which it was received and the date on which the denunciation takes effect; and
- (b) as soon as this Convention enters into force, transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 22 *Languages*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this thirteenth day of February, two thousand and four.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments for that purpose, have signed this Convention.

ANNEX

**REGULATIONS FOR THE CONTROL AND MANAGEMENT OF SHIPS'
BALLAST WATER AND SEDIMENTS**

SECTION A - GENERAL PROVISIONS

Regulation A-1 *Definitions*

For the purposes of this Annex:

1 “Anniversary date” means the day and the month of each year corresponding to the date of expiry of the Certificate.

2 “Ballast Water Capacity” means the total volumetric capacity of any tanks, spaces or compartments on a ship used for carrying, loading or discharging Ballast Water, including any multi-use tank, space or compartment designed to allow carriage of Ballast Water.

3 “Company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code¹.

4 “Constructed” in respect of a ship means a stage of construction where:

- .1 the keel is laid; or
- .2 construction identifiable with the specific ship begins;
- .3 assembly of the ship has commenced comprising at least 50 tonnes or 1 percent of the estimated mass of all structural material, whichever is less; or
- .4 the ship undergoes a major conversion.

5 “Major conversion” means a conversion of a ship:

- .1 which changes its ballast water carrying capacity by 15 percent or greater, or
- .2 which changes the ship type, or
- .3 which, in the opinion of the Administration, is projected to prolong its life by ten years or more, or
- .4 which results in modifications to its ballast water system other than component replacement-in-kind. Conversion of a ship to meet the provisions of regulation D-1 shall not be deemed to constitute a major conversion for the purpose of this Annex.

¹ Refer to the ISM Code adopted by the Organization by resolution A.741(18), as amended.

- 6 “From the nearest land” means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the Convention, “from the nearest land” off the north-eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11°00' S, longitude 142°08' E
to a point in latitude 10°35' S, longitude 141°55' E
thence to a point latitude 10°00' S, longitude 142°00' E
thence to a point latitude 9°10' S, longitude 143°52' E
thence to a point latitude 9°00' S, longitude 144°30' E
thence to a point latitude 10°41' S, longitude 145°00' E
thence to a point latitude 13°00' S, longitude 145°00' E
thence to a point latitude 15°00' S, longitude 146°00' E
thence to a point latitude 17°30' S, longitude 147°00' E
thence to a point latitude 21°00' S, longitude 152°55' E
thence to a point latitude 24°30' S, longitude 154°00' E
thence to a point on the coast of Australia
in latitude 24°42' S, longitude 153°15' E.

- 7 “Active Substance” means a substance or organism, including a virus or a fungus, that has a general or specific action on or against Harmful Aquatic Organisms and Pathogens.

Regulation A-2 *General Applicability*

Except where expressly provided otherwise, the discharge of Ballast Water shall only be conducted through Ballast Water Management in accordance with the provisions of this Annex.

Regulation A-3 *Exceptions*

The requirements of regulation B-3, or any measures adopted by a Party pursuant to Article 2.3 and Section C, shall not apply to:

- 1 the uptake or discharge of Ballast Water and Sediments necessary for the purpose of ensuring the safety of a ship in emergency situations or saving life at sea; or
- 2 the accidental discharge or ingress of Ballast Water and Sediments resulting from damage to a ship or its equipment:
 - .1 provided that all reasonable precautions have been taken before and after the occurrence of the damage or discovery of the damage or discharge for the purpose of preventing or minimizing the discharge; and
 - .2 unless the owner, Company or officer in charge wilfully or recklessly caused damage; or
- 3 the uptake and discharge of Ballast Water and Sediments when being used for the purpose of avoiding or minimizing pollution incidents from the ship; or

- 4 the uptake and subsequent discharge on the high seas of the same Ballast Water and Sediments; or
- 5 the discharge of Ballast Water and Sediments from a ship at the same location where the whole of that Ballast Water and those Sediments originated and provided that no mixing with unmanaged Ballast Water and Sediments from other areas has occurred. If mixing has occurred, the Ballast Water taken from other areas is subject to Ballast Water Management in accordance with this Annex.

Regulation A-4 *Exemptions*

1 A Party or Parties, in waters under their jurisdiction, may grant exemptions to any requirements to apply regulations B-3 or C-1, in addition to those exemptions contained elsewhere in this Convention, but only when they are:

- .1 granted to a ship or ships on a voyage or voyages between specified ports or locations; or to a ship which operates exclusively between specified ports or locations;
- .2 effective for a period of no more than five years subject to intermediate review;
- .3 granted to ships that do not mix Ballast Water or Sediments other than between the ports or locations specified in paragraph 1.1; and
- .4 granted based on the Guidelines on risk assessment developed by the Organization.

2 Exemptions granted pursuant to paragraph 1 shall not be effective until after communication to the Organization and circulation of relevant information to the Parties.

3 Any exemptions granted under this regulation shall not impair or damage the environment, human health, property or resources of adjacent or other States. Any State that the Party determines may be adversely affected shall be consulted, with a view to resolving any identified concerns.

4 Any exemptions granted under this regulation shall be recorded in the Ballast Water record book.

Regulation A-5 *Equivalent compliance*

Equivalent compliance with this Annex for pleasure craft used solely for recreation or competition or craft used primarily for search and rescue, less than 50 metres in length overall, and with a maximum Ballast Water capacity of 8 cubic metres, shall be determined by the Administration taking into account Guidelines developed by the Organization.

SECTION B – MANAGEMENT AND CONTROL REQUIREMENTS FOR SHIPS

Regulation B-1 *Ballast Water Management Plan*

Each ship shall have on board and implement a Ballast Water Management plan. Such a plan shall be approved by the Administration taking into account Guidelines developed by the Organization. The Ballast Water Management plan shall be specific to each ship and shall at least:

- 1 detail safety procedures for the ship and the crew associated with Ballast Water Management as required by this Convention;
- 2 provide a detailed description of the actions to be taken to implement the Ballast Water Management requirements and supplemental Ballast Water Management practices as set forth in this Convention;
- 3 detail the procedures for the disposal of Sediments:
 - .1 at sea; and
 - .2 to shore;
- 4 include the procedures for coordinating shipboard Ballast Water Management that involves discharge to the sea with the authorities of the State into whose waters such discharge will take place;
- 5 designate the officer on board in charge of ensuring that the plan is properly implemented;
- 6 contain the reporting requirements for ships provided for under this Convention; and
- 7 be written in the working language of the ship. If the language used is not English, French or Spanish, a translation into one of these languages shall be included.

Regulation B-2 *Ballast Water Record Book*

1 Each ship shall have on board a Ballast Water record book that may be an electronic record system, or that may be integrated into another record book or system and, which shall at least contain the information specified in Appendix II.

2 Ballast Water record book entries shall be maintained on board the ship for a minimum period of two years after the last entry has been made and thereafter in the Company's control for a minimum period of three years.

3 In the event of the discharge of Ballast Water pursuant to regulations A-3, A-4 or B-3.6 or in the event of other accidental or exceptional discharge of Ballast Water not otherwise exempted by this Convention, an entry shall be made in the Ballast Water record book describing the circumstances of, and the reason for, the discharge.

4 The Ballast Water record book shall be kept readily available for inspection at all reasonable times and, in the case of an unmanned ship under tow, may be kept on the towing ship.

5 Each operation concerning Ballast Water shall be fully recorded without delay in the Ballast Water record book. Each entry shall be signed by the officer in charge of the operation concerned and each completed page shall be signed by the master. The entries in the Ballast Water record book shall be in a working language of the ship. If that language is not English, French or Spanish the entries shall contain a translation into one of those languages. When entries in an official national language of the State whose flag the ship is entitled to fly are also used, these shall prevail in case of a dispute or discrepancy.

6 Officers duly authorized by a Party may inspect the Ballast Water record book on board any ship to which this regulation applies while the ship is in its port or offshore terminal, and may make a copy of any entry, and require the master to certify that the copy is a true copy. Any copy so certified shall be admissible in any judicial proceeding as evidence of the facts stated in the entry. The inspection of a Ballast Water record book and the taking of a certified copy shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation B-3 *Ballast Water Management for Ships*

1 A ship constructed before 2009:

- .1 with a Ballast Water Capacity of between 1,500 and 5,000 cubic metres, inclusive, shall conduct Ballast Water Management that at least meets the standard described in regulation D-1 or regulation D-2 until 2014, after which time it shall at least meet the standard described in regulation D-2;
- .2 with a Ballast Water Capacity of less than 1,500 or greater than 5,000 cubic metres shall conduct Ballast Water Management that at least meets the standard described in regulation D-1 or regulation D-2 until 2016, after which time it shall at least meet the standard described in regulation D-2.

2 A ship to which paragraph 1 applies shall comply with paragraph 1 not later than the first intermediate or renewal survey, whichever occurs first, after the anniversary date of delivery of the ship in the year of compliance with the standard applicable to the ship.

3 A ship constructed in or after 2009 with a Ballast Water Capacity of less than 5,000 cubic metres shall conduct Ballast Water Management that at least meets the standard described in regulation D-2.

4 A ship constructed in or after 2009, but before 2012, with a Ballast Water Capacity of 5,000 cubic metres or more shall conduct Ballast Water Management in accordance with paragraph 1.2.

5 A ship constructed in or after 2012 with a Ballast Water Capacity of 5000 cubic metres or more shall conduct Ballast Water Management that at least meets the standard described in regulation D-2.

6 The requirements of this regulation do not apply to ships that discharge Ballast Water to a reception facility designed taking into account the Guidelines developed by the Organization for such facilities.

7 Other methods of Ballast Water Management may also be accepted as alternatives to the requirements described in paragraphs 1 to 5, provided that such methods ensure at least the same level of protection to the environment, human health, property or resources, and are approved in principle by the Committee.

Regulation B-4 *Ballast Water Exchange*

1 A ship conducting Ballast Water exchange to meet the standard in regulation D-1 shall:

- .1 whenever possible, conduct such Ballast Water exchange at least 200 nautical miles from the nearest land and in water at least 200 metres in depth, taking into account the Guidelines developed by the Organization;
- .2 in cases where the ship is unable to conduct Ballast Water exchange in accordance with paragraph 1.1, such Ballast Water exchange shall be conducted taking into account the Guidelines described in paragraph 1.1 and as far from the nearest land as possible, and in all cases at least 50 nautical miles from the nearest land and in water at least 200 metres in depth.

2 In sea areas where the distance from the nearest land or the depth does not meet the parameters described in paragraph 1.1 or 1.2, the port State may designate areas, in consultation with adjacent or other States, as appropriate, where a ship may conduct Ballast Water exchange, taking into account the Guidelines described in paragraph 1.1.

3 A ship shall not be required to deviate from its intended voyage, or delay the voyage, in order to comply with any particular requirement of paragraph 1.

4 A ship conducting Ballast Water exchange shall not be required to comply with paragraphs 1 or 2, as appropriate, if the master reasonably decides that such exchange would threaten the safety or stability of the ship, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other extraordinary condition.

5 When a ship is required to conduct Ballast Water exchange and does not do so in accordance with this regulation, the reasons shall be entered in the Ballast Water record book.

Regulation B-5 *Sediment Management for Ships*

1 All ships shall remove and dispose of Sediments from spaces designated to carry Ballast Water in accordance with the provisions of the ship's Ballast Water Management plan.

2 Ships described in regulation B-3.3 to B-3.5 should, without compromising safety or operational efficiency, be designed and constructed with a view to minimize the uptake and undesirable entrapment of Sediments, facilitate removal of Sediments, and provide safe access to allow for Sediment removal and sampling, taking into account guidelines developed by the Organization. Ships described in regulation B-3.1 should, to the extent practicable, comply with this paragraph.

Regulation B-6 *Duties of Officers and Crew*

Officers and crew shall be familiar with their duties in the implementation of Ballast Water Management particular to the ship on which they serve and shall, appropriate to their duties, be familiar with the ship's Ballast Water Management plan.

SECTION C – SPECIAL REQUIREMENTS IN CERTAIN AREAS

Regulation C-1 *Additional Measures*

1 If a Party, individually or jointly with other Parties, determines that measures in addition to those in Section B are necessary to prevent, reduce, or eliminate the transfer of Harmful Aquatic Organisms and Pathogens through ships' Ballast Water and Sediments, such Party or Parties may, consistent with international law, require ships to meet a specified standard or requirement.

2 Prior to establishing standards or requirements under paragraph 1, a Party or Parties should consult with adjacent or other States that may be affected by such standards or requirements.

3 A Party or Parties intending to introduce additional measures in accordance with paragraph 1 shall:

- .1 take into account the Guidelines developed by the Organization.
- .2 communicate their intention to establish additional measure(s) to the Organization at least 6 months, except in emergency or epidemic situations, prior to the projected date of implementation of the measure(s). Such communication shall include:
 - .1 the precise co-ordinates where additional measure(s) is/are applicable;
 - .2 the need and reasoning for the application of the additional measure(s), including, whenever possible, benefits;
 - .3 a description of the additional measure(s); and
 - .4 any arrangements that may be provided to facilitate ships' compliance with the additional measure(s).

- .3 to the extent required by customary international law as reflected in the United Nations Convention on the Law of the Sea, as appropriate, obtain the approval of the Organization.

4 A Party or Parties, in introducing such additional measures, shall endeavour to make available all appropriate services, which may include but are not limited to notification to mariners of areas, available and alternative routes or ports, as far as practicable, in order to ease the burden on the ship.

5 Any additional measures adopted by a Party or Parties shall not compromise the safety and security of the ship and in any circumstances not conflict with any other convention with which the ship must comply.

6 A Party or Parties introducing additional measures may waive these measures for a period of time or in specific circumstances as they deem fit.

Regulation C-2 *Warnings Concerning Ballast Water Uptake in Certain Areas and Related Flag State Measures*

1 A Party shall endeavour to notify mariners of areas under their jurisdiction where ships should not uptake Ballast Water due to known conditions. The Party shall include in such notices the precise coordinates of the area or areas, and, where possible, the location of any alternative area or areas for the uptake of Ballast Water. Warnings may be issued for areas:

- .1 known to contain outbreaks, infestations, or populations of Harmful Aquatic Organisms and Pathogens (e.g., toxic algal blooms) which are likely to be of relevance to Ballast Water uptake or discharge;
- .2 near sewage outfalls; or
- .3 where tidal flushing is poor or times during which a tidal stream is known to be more turbid.

2 In addition to notifying mariners of areas in accordance with the provisions of paragraph 1, a Party shall notify the Organization and any potentially affected coastal States of any areas identified in paragraph 1 and the time period such warning is likely to be in effect. The notice to the Organization and any potentially affected coastal States shall include the precise coordinates of the area or areas, and, where possible, the location of any alternative area or areas for the uptake of Ballast Water. The notice shall include advice to ships needing to uptake Ballast Water in the area, describing arrangements made for alternative supplies. The Party shall also notify mariners, the Organization, and any potentially affected coastal States when a given warning is no longer applicable.

Regulation C-3 *Communication of Information*

The Organization shall make available, through any appropriate means, information communicated to it under regulations C-1 and C-2.

SECTION D - STANDARDS FOR BALLAST WATER MANAGEMENT

Regulation D-1 *Ballast Water Exchange Standard*

1 Ships performing Ballast Water exchange in accordance with this regulation shall do so with an efficiency of at least 95 percent volumetric exchange of Ballast Water.

2 For ships exchanging Ballast Water by the pumping-through method, pumping through three times the volume of each Ballast Water tank shall be considered to meet the standard described in paragraph 1. Pumping through less than three times the volume may be accepted provided the ship can demonstrate that at least 95 percent volumetric exchange is met.

Regulation D-2 *Ballast Water Performance Standard*

1 Ships conducting Ballast Water Management in accordance with this regulation shall discharge less than 10 viable organisms per cubic metre greater than or equal to 50 micrometres in minimum dimension and less than 10 viable organisms per millilitre less than 50 micrometres in minimum dimension and greater than or equal to 10 micrometres in minimum dimension; and discharge of the indicator microbes shall not exceed the specified concentrations described in paragraph 2.

2 Indicator microbes, as a human health standard, shall include:

- .1 Toxicogenic *Vibrio cholerae* (O1 and O139) with less than 1 colony forming unit (cfu) per 100 millilitres or less than 1 cfu per 1 gram (wet weight) zooplankton samples ;
- .2 *Escherichia coli* less than 250 cfu per 100 millilitres;
- .3 Intestinal Enterococci less than 100 cfu per 100 milliliters.

Regulation D-3 *Approval requirements for Ballast Water Management systems*

1 Except as specified in paragraph 2, Ballast Water Management systems used to comply with this Convention must be approved by the Administration taking into account Guidelines developed by the Organization.

2 Ballast Water Management systems which make use of Active Substances or preparations containing one or more Active Substances to comply with this Convention shall be approved by the Organization, based on a procedure developed by the Organization. This procedure shall describe the approval and withdrawal of approval of Active Substances and their proposed manner of application. At withdrawal of approval, the use of the relevant Active Substance or Substances shall be prohibited within 1 year after the date of such withdrawal.

3 Ballast Water Management systems used to comply with this Convention must be safe in terms of the ship, its equipment and the crew.

Regulation D-4 Prototype Ballast Water Treatment Technologies

1 For any ship that, prior to the date that the standard in regulation D-2 would otherwise become effective for it, participates in a programme approved by the Administration to test and evaluate promising Ballast Water treatment technologies, the standard in regulation D-2 shall not apply to that ship until five years from the date on which the ship would otherwise be required to comply with such standard.

2 For any ship that, after the date on which the standard in regulation D-2 has become effective for it, participates in a programme approved by the Administration, taking into account Guidelines developed by the Organization, to test and evaluate promising Ballast Water technologies with the potential to result in treatment technologies achieving a standard higher than that in regulation D-2, the standard in regulation D-2 shall cease to apply to that ship for five years from the date of installation of such technology.

3 In establishing and carrying out any programme to test and evaluate promising Ballast Water technologies, Parties shall:

- .1 take into account Guidelines developed by the Organization, and
- .2 allow participation only by the minimum number of ships necessary to effectively test such technologies.

4 Throughout the test and evaluation period, the treatment system must be operated consistently and as designed.

Regulation D-5 *Review of Standards by the Organization*

1 At a meeting of the Committee held no later than three years before the earliest effective date of the standard set forth in regulation D-2, the Committee shall undertake a review which includes a determination of whether appropriate technologies are available to achieve the standard, an assessment of the criteria in paragraph 2, and an assessment of the socio-economic effect(s) specifically in relation to the developmental needs of developing countries, particularly small island developing States. The Committee shall also undertake periodic reviews, as appropriate, to examine the applicable requirements for ships described in regulation B-3.1 as well as any other aspect of Ballast Water Management addressed in this Annex, including any Guidelines developed by the Organization.

2 Such reviews of appropriate technologies shall also take into account:

- .1 safety considerations relating to the ship and the crew;
- .2 environmental acceptability, i.e., not causing more or greater environmental impacts than they solve;
- .3 practicability, i.e., compatibility with ship design and operations;
- .4 cost effectiveness, i.e., economics; and

- .5 biological effectiveness in terms of removing, or otherwise rendering not viable, Harmful Aquatic Organisms and Pathogens in Ballast Water.

3 The Committee may form a group or groups to conduct the review(s) described in paragraph 1. The Committee shall determine the composition, terms of reference and specific issues to be addressed by any such group formed. Such groups may develop and recommend proposals for amendment of this Annex for consideration by the Parties. Only Parties may participate in the formulation of recommendations and amendment decisions taken by the Committee.

4 If, based on the reviews described in this regulation, the Parties decide to adopt amendments to this Annex, such amendments shall be adopted and enter into force in accordance with the procedures contained in Article 19 of this Convention.

SECTION E - SURVEY AND CERTIFICATION REQUIREMENTS FOR BALLAST WATER MANAGEMENT

Regulation E-1 *Surveys*

1 Ships of 400 gross tonnage and above to which this Convention applies, excluding floating platforms, FSUs and FPSOs, shall be subject to surveys specified below:

- .1 An initial survey before the ship is put in service or before the Certificate required under regulation E-2 or E-3 is issued for the first time. This survey shall verify that the Ballast Water Management plan required by regulation B-1 and any associated structure, equipment, systems, fitting, arrangements and material or processes comply fully with the requirements of this Convention.
- .2 A renewal survey at intervals specified by the Administration, but not exceeding five years, except where regulation E-5.2, E-5.5, E-5.6, or E-5.7 is applicable. This survey shall verify that the Ballast Water Management plan required by regulation B-1 and any associated structure, equipment, systems, fitting, arrangements and material or processes comply fully with the applicable requirements of this Convention.
- .3 An intermediate survey within three months before or after the second Anniversary date or within three months before or after the third Anniversary date of the Certificate, which shall take the place of one of the annual surveys specified in paragraph 1.4. The intermediate surveys shall ensure that the equipment, associated systems and processes for Ballast Water Management fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.
- .4 An annual survey within three months before or after each Anniversary date, including a general inspection of the structure, any equipment, systems, fittings, arrangements and material or processes associated with the Ballast Water Management plan required by regulation B-1 to ensure that they have been maintained in accordance with paragraph 9 and remain satisfactory for the service

for which the ship is intended. Such annual surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.

- .5 An additional survey either general or partial, according to the circumstances, shall be made after a change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements and material necessary to achieve full compliance with this Convention. The survey shall be such as to ensure that any such change, replacement, or significant repair has been effectively made, so that the ship complies with the requirements of this Convention. Such surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.

2 The Administration shall establish appropriate measures for ships that are not subject to the provisions of paragraph 1 in order to ensure that the applicable provisions of this Convention are complied with.

3 Surveys of ships for the purpose of enforcement of the provisions of this Convention shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

4 An Administration nominating surveyors or recognizing organizations to conduct surveys, as described in paragraph 3 shall, as a minimum, empower such nominated surveyors or recognized organizations² to:

- .1 require a ship that they survey to comply with the provisions of this Convention; and
- .2 carry out surveys and inspections if requested by the appropriate authorities of a port State that is a Party.

5 The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties for the information of their officers.

6 When the Administration, a nominated surveyor, or a recognized organization determines that the ship's Ballast Water Management does not conform to the particulars of the Certificate required under regulation E-2 or E-3 or is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources such surveyor or organization shall immediately ensure that corrective action is taken to bring the ship into compliance. A surveyor or organization shall be notified immediately, and it shall ensure that the Certificate is not issued or is withdrawn as appropriate. If the ship is in the port of another Party, the appropriate authorities of the port State shall be notified immediately. When an officer of the Administration, a nominated surveyor, or a recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation, including any action described in Article 9.

² Refer to the guidelines adopted by the Organization by resolution A.739(18), as may be amended by the Organization, and the specifications adopted by the Organization by resolution A.789(19), as may be amended by the Organization.

7 Whenever an accident occurs to a ship or a defect is discovered which substantially affects the ability of the ship to conduct Ballast Water Management in accordance with this Convention, the owner, operator or other person in charge of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph 1 is necessary. If the ship is in a port of another Party, the owner, operator or other person in charge shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

8 In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

9 The condition of the ship and its equipment, systems and processes shall be maintained to conform with the provisions of this Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources.

10 After any survey of the ship under paragraph 1 has been completed, no change shall be made in the structure, any equipment, fittings, arrangements or material associated with the Ballast Water Management plan required by regulation B-1 and covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings.

Regulation E-2 *Issuance or Endorsement of a Certificate*

1 The Administration shall ensure that a ship to which regulation E-1 applies is issued a Certificate after successful completion of a survey conducted in accordance with regulation E-1. A Certificate issued under the authority of a Party shall be accepted by the other Parties and regarded for all purposes covered by this Convention as having the same validity as a Certificate issued by them.

2 Certificates shall be issued or endorsed either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the Certificate.

Regulation E-3 *Issuance or Endorsement of a Certificate by Another Party*

1 At the request of the Administration, another Party may cause a ship to be surveyed and, if satisfied that the provisions of this Convention are complied with, shall issue or authorize the issuance of a Certificate to the ship, and where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with this Annex.

2 A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

3 A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as a Certificate issued by the Administration.

4 No Certificate shall be issued to a ship entitled to fly the flag of a State which is not a Party.

Regulation E-4 *Form of the Certificate*

The Certificate shall be drawn up in the official language of the issuing Party, in the form set forth in Appendix I. If the language used is neither English, French nor Spanish, the text shall include a translation into one of these languages.

Regulation E-5 *Duration and Validity of the Certificate*

1 A Certificate shall be issued for a period specified by the Administration that shall not exceed five years.

2 For renewal surveys:

- .1 Notwithstanding the requirements of paragraph 1, when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
- .2 When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
- .3 When the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

3 If a Certificate is issued for a period of less than five years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum period specified in paragraph 1, provided that the surveys referred to in regulation E-1.1.3 applicable when a Certificate is issued for a period of five years are carried out as appropriate.

4 If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorized by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

5 If a ship at the time when the Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than three months, and a ship to which such extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate. When

the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

6 A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

7 In special circumstances, as determined by the Administration, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by paragraph 2.2, 5 or 6 of this regulation. In these special circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

8 If an annual survey is completed before the period specified in regulation E-1, then:

- .1 the Anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
- .2 the subsequent annual or intermediate survey required by regulation E-1 shall be completed at the intervals prescribed by that regulation using the new Anniversary date;
- .3 the expiry date may remain unchanged provided one or more annual surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulation E-1 are not exceeded.

9 A Certificate issued under regulation E-2 or E-3 shall cease to be valid in any of the following cases:

- .1 if the structure, equipment, systems, fittings, arrangements and material necessary to comply fully with this Convention is changed, replaced or significantly repaired and the Certificate is not endorsed in accordance with this Annex;
- .2 upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Party issuing the new Certificate is fully satisfied that the ship is in compliance with the requirements of regulation E-1. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the Certificates carried by the ship before the transfer and, if available, copies of the relevant survey reports;
- .3 if the relevant surveys are not completed within the periods specified under regulation E-1.1; or
- .4 if the Certificate is not endorsed in accordance with regulation E-1.1.

APPENDIX I

FORM OF INTERNATIONAL BALLAST WATER MANAGEMENT CERTIFICATE

INTERNATIONAL BALLAST WATER MANAGEMENT CERTIFICATE

Issued under the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments (hereinafter referred to as "the Convention") under the authority of the Government of

.....
(full designation of the country)

by
(full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of ship¹

Name of ship

Distinctive number or letters

Port of registry

Gross Tonnage

IMO number²

Date of Construction

Ballast Water Capacity (in cubic metres)

Details of Ballast Water Management Method(s) Used

Method of Ballast Water Management used

Date installed (if applicable)

Name of manufacturer (if applicable)

¹ Alternatively, the particulars of the ship may be placed horizontally in boxes.

² IMO Ship Identification Number Scheme adopted by the Organization by resolution A.600(15).

The principal Ballast Water Management method(s) employed on this ship is/are:

- in accordance with regulation D-1
- in accordance with regulation D-2
(describe)
- the ship is subject to regulation D-4

THIS IS TO CERTIFY:

- 1 That the ship has been surveyed in accordance with regulation E-1 of the Annex to the Convention; and
- 2 That the survey shows that Ballast Water Management on the ship complies with the Annex to the Convention.

This certificate is valid until subject to surveys in accordance with regulation E-1 of the Annex to the Convention.

Completion date of the survey on which this certificate is based: dd/mm/yyyy

Issued at
(Place of issue of certificate)

.....
(Date of issue)

.....
Signature of authorized official issuing the certificate

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEY(S)

THIS IS TO CERTIFY that a survey required by regulation E-1 of the Annex to the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey: Signed
(Signature of duly authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

Annual*/Intermediate survey*: Signed
(Signature of duly authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

Annual*/Intermediate survey*: Signed
(Signature of duly authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

Annual survey: Signed
(Signature of duly authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

* Delete as appropriate.

**ANNUAL/INTERMEDIATE SURVEY
IN ACCORDANCE WITH REGULATION E-5.8.3**

THIS IS TO CERTIFY that, at an annual/intermediate* survey in accordance with regulation E-5.8.3 of the Annex to the Convention, the ship was found to comply with the relevant provisions of the Convention:

Signed
(Signature of authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID
FOR LESS THAN 5 YEARS WHERE REGULATION E-5.3 APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation E-5.3 of the Annex to the Convention, be accepted as valid until.....

Signed
(Signature of authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN
COMPLETED AND REGULATION E-5.4 APPLIES**

The ship complies with the relevant provisions of the Convention and this Certificate shall, in accordance with regulation E-5.4 of the Annex to the Convention, be accepted as valid until

Signed
(Signature of authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

* Delete as appropriate

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL
REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE
WHERE REGULATION E-5.5 OR E-5.6 APPLIES**

This Certificate shall, in accordance with regulation E-5.5 or E-5.6* of the Annex to the Convention, be accepted as valid until

Signed
(Signature of authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE
WHERE REGULATION E-5.8 APPLIES**

In accordance with regulation E-5.8 of the Annex to the Convention the new Anniversary date is

Signed
(Signature of authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

In accordance with regulation E-5.8 of the Annex to the Convention the new Anniversary date is

Signed
(Signature of duly authorized official)

Place

Date.....

(Seal or stamp of the authority, as appropriate)

* Delete as appropriate

APPENDIX II

FORM OF BALLAST WATER RECORD BOOK

INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS

Period From: To:

Name of Ship

IMO number

Gross tonnage

Flag

Total Ballast Water capacity (in cubic metres)

The ship is provided with a Ballast Water Management plan

Diagram of ship indicating ballast tanks:

1 Introduction

In accordance with regulation B-2 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, a record is to be kept of each Ballast Water operation. This includes discharges at sea and to reception facilities.

2 Ballast Water and Ballast Water Management

"Ballast Water" means water with its suspended matter taken on board a ship to control trim, list, draught, stability, or stresses of a ship. Management of Ballast Water shall be in accordance with an approved Ballast Water Management plan and taking into account Guidelines³ developed by the Organization.

3 Entries in the Ballast Water Record Book

Entries in the Ballast Water record book shall be made on each of the following occasions:

3.1 When Ballast Water is taken on board:

³ Refer to the Guidelines for the control and management of ships' ballast water to minimize the transfer of harmful aquatic organisms and pathogens adopted by the Organization by resolution A.868(20).

- .1 Date, time and location port or facility of uptake (port or lat/long), depth if outside port
 - .2 Estimated volume of uptake in cubic metres
 - .3 Signature of the officer in charge of the operation.
- 3.2 Whenever Ballast Water is circulated or treated for Ballast Water Management purposes:
- .1 Date and time of operation
 - .2 Estimated volume circulated or treated (in cubic metres)
 - .3 Whether conducted in accordance with the Ballast Water Management plan
 - .4 Signature of the officer in charge of the operation
- 3.3 When Ballast Water is discharged into the sea:
- .1 Date, time and location port or facility of discharge (port or lat/long)
 - .2 Estimated volume discharged in cubic metres plus remaining volume in cubic metres
 - .3 Whether approved Ballast Water Management plan had been implemented prior to discharge
 - .4 Signature of the officer in charge of the operation.
- 3.4 When Ballast Water is discharged to a reception facility:
- .1 Date, time, and location of uptake
 - .2 Date, time, and location of discharge
 - .3 Port or facility
 - .4 Estimated volume discharged or taken up, in cubic metres
 - .5 Whether approved Ballast Water Management plan had been implemented prior to discharge
 - .6 Signature of officer in charge of the operation
- 3.5 Accidental or other exceptional uptake or discharges of Ballast Water:
- .1 Date and time of occurrence
 - .2 Port or position of the ship at time of occurrence

- .3 Estimated volume of Ballast Water discharged
 - .4 Circumstances of uptake, discharge, escape or loss, the reason therefore and general remarks.
 - .5 Whether approved Ballast Water Management plan had been implemented prior to discharge
 - .6 Signature of officer in charge of the operation
- 3.6 Additional operational procedure and general remarks

4 Volume of Ballast Water

The volume of Ballast Water onboard should be estimated in cubic metres. The Ballast Water record book contains many references to estimated volume of Ballast Water. It is recognized that the accuracy of estimating volumes of ballast is left to interpretation.

RECORD OF BALLAST WATER OPERATIONS

SAMPLE BALLAST WATER RECORD BOOK PAGE

Name of Ship:

Distinctive number or letters

Date	Item (number)	Record of operations/signature of officers in charge

Signature of master

