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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

New York, 4 August 1995

[The United Kingdom's instrument of ratification was deposited on 19 December 2003 and the Agreement entered into force for the United Kingdom on 18 January 2004. The United Kingdom's instrument of ratification in respect of certain overseas territories was accepted on 10 December 2001 and the Agreement entered into force for those territories on 9 January 2002]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 2004*

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**AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF
THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
OF 10 DECEMBER 1982¹ 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,

¹ Treaty Series No. 81 (1999) Cm 4524

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;

(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 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.

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 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;
- (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

(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 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 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.

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.

**RATIFICATIONS, ACCESSIONS, EFFECTIVE DATES AND
DECLARATIONS**

State	Action	Date	Effective Date
Argentina	Signature	4 Dec 1995	
Australia	Signature	4 Dec 1995	
	Ratification	23 Dec 1999	11 Dec 2001
Austria	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Bahamas	Accession	16 Jan 1997	11 Dec 2001
Bangladesh	Signature	4 Dec 1995	
Barbados	Accession	22 Sep 2000	11 Dec 2001
Belgium	Signature	3 Oct 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Belize	Signature	4 Dec 1995	
Brazil	Signature	4 Dec 1995	
	Ratification	8 Mar 2000	11 Dec 2001
Burkina Faso	Signature	15 Oct 1996	
Canada	Signature	4 Dec 1995	
	Ratification	3 Aug 1999	11 Dec 2001
China	Signature	6 Nov 1996	
Cook Islands	Accession	1 Apr 1999	11 Dec 2001
Costa Rica	Accession	18 Jun 2001	11 Dec 2001
Cote d'Ivoire	Signature	24 Jan 1996	
Cyprus	Accession	25 Sep 2002	25 Oct 2002
Denmark	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Egypt	Signature	5 Dec 1995	
European Community	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Fiji	Signature	4 Dec 1995	
	Ratification	12 Dec 1996	11 Dec 2001
Finland	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
France	Signature	4 Dec 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Gabon	Signature	7 Oct 1996	
Germany	Signature	28 Aug 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Greece	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Guinea Bissau	Signature	4 Dec 1995	
Iceland	Signature	4 Dec 1995	
	Ratification	14 Feb 1997	11 Dec 2001
India	Accession	19 Aug 2003	18 Sep 2003
Indonesia	Signature	4 Dec 1995	

Iran (Islamic Republic of)	Accession	17 Apr 1998	11 Dec 2001
Ireland	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Israel	Signature	4 Dec 1995	
Italy ¹	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Jamaica	Signature	4 Dec 1995	
Japan	Signature	19 Nov 1996	
Luxembourg ²	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Maldives	Signature	8 Oct 1996	
	Ratification	30 Dec 1998	11 Dec 2001
Malta	Accession	11 Nov 2001	11 Dec 2001
Marshall Islands	Signature	4 Dec 1995	
	Ratification	19 Mar 2003	18 Jan 2004
Mauritania	Signature	21 Dec 1995	
Mauritius	Accession	25 Mar 1997	11 Dec 2001
Micronesia (Federated States of)	Signature	4 Dec 1995	
	Ratification	23 May 1997	11 Dec 2001
Monaco	Accession	9 Jun 1999	11 Dec 2001
Morocco	Signature	4 Dec 1995	
Namibia	Signature	19 Apr 1996	
	Ratification	8 Apr 1998	11 Dec 2001
Nauru	Accession	10 Jan 1997	11 Dec 2001
Netherlands ³	Signature	28 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
New Zealand ⁴	Signature	4 Dec 1995	
	Ratification	18 Apr 2001	11 Dec 2001
Niue	Signature	4 Dec 1995	
Norway	Signature	4 Dec 1995	
	Ratification	30 Dec 1996	11 Dec 2001
Pakistan	Signature	15 Feb 1996	
Papua New Guinea	Signature	4 Dec 1995	
	Ratification	4 Jun 1999	11 Dec 2001
Philippines	Signature	30 Aug 1996	
Portugal	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Republic of Korea	Signature	26 Nov 1996	
Russian Federation	Signature	4 Dec 1995	
	Ratification	4 Aug 1997	11 Dec 2001
St Lucia	Signature	12 Dec 1995	
Samoa	Ratification	9 Aug 1996	11 Dec 2001
	Signature	4 Dec 1995	
Senegal	Ratification	25 Oct 1996	11 Dec 2001
	Signature	4 Dec 1995	
	Ratification	30 Jan 1997	11 Dec 2001

Seychelles	Signature	4 Dec 1996	
	Ratification	20 Mar 1998	11 Dec 2001
Solomon Islands	Accession	13 Feb 1997	11 Dec 2001
South Africa	Accession	14 Aug 2003	13 Sep 2003
Spain	Signature	3 Dec 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Sri Lanka	Signature	9 Oct 1996	
	Ratification	24 Oct 1996	11 Dec 2001
Sweden	Signature	27 Jun 1996	
	Ratification	19 Dec 2003	18 Jan 2004
Tonga	Signature	4 Dec 1995	
	Ratification	31 Jul 1996	11 Dec 2001
Uganda	Signature	10 Oct 1996	
Ukraine	Signature	4 Dec 1995	
	Ratification	27 Feb 2003	29 Mar 2003
United Kingdom of Great Britain and Northern Ireland ⁵ (for certain overseas territories)	Signature	4 Dec 1995	
	Ratification	10 Dec 2001	9 Jan 2002
United Kingdom	Signature	27 June 1996	
	Ratification	19 Dec 2003	18 Jan 2004
United States of America	Signature	4 Dec 1995	
	Ratification	21 Aug 1996	11 Dec 2001
Uruguay	Signature	16 Jan 1996	
	Ratification	10 Sep 1999	11 Dec 2001
Vanuatu	Signature	23 Jul 1996	

The Agreement entered into force on 11 December 2001

DECLARATIONS

Declarations and Reservations

(Unless otherwise indicated, the declarations and reservations were made upon ratification or accession)

Austria

Declarations:

"Declaration concerning the competence of the Republic of Austria with regard to matters governed by the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

The Republic of Austria declares upon ratification of the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks that she has, as a Member State of the European Community, transferred competence to the Community in respect of the following matters governed by the Agreement:

I. Matters for which the Community has exclusive competence

1. Member States have transferred competence to the Community with regard to the conservation and management of living marine resources. Hence, in this field, it is for the Community to adopt the relevant rules and regulations (which the Member States enforce) and within its competence to enter into external undertakings with third States or competent organisations. This competence applies in regard of waters under national fisheries jurisdiction and to the high seas.

2. The Community enjoys the regulatory competence granted under international law to the flag State of a vessel to determine the conservation and management measures for marine fisheries resources applicable to vessels flying the flag of Member States and to ensure that Member States adopt provisions allowing for the implementation of the said measures.

3. Nevertheless, measures applicable in respect of masters and other officers of fishing vessels, for example refusal, withdrawal or suspension of authorisations to serve as such, are within the competence of the Member States in accordance with their national legislation. Measures relating to the exercise of jurisdiction by the flag State over its vessels on the high seas, in particular provisions such as those related to the taking and relinquishing of control of fishing vessels by States other than the flag State, international cooperation in respect of enforcement and the recovery of the control of their vessels, are within the competence of the Member States in compliance with Community law.

II. Matters for which both the Community and its Member States have competence

4. The Community shares competence with its Member States on the following matters governed by this Agreement: requirements of developing States, scientific research, port-State measures and measures adopted in respect of non-members of regional fisheries organisations and non-Parties to the Agreement. The following provisions of the Agreement apply both to the Community and to its Member States:

- general provisions: (articles 1, 4, and 34 to 50)
- dispute settlement: (Part VIII)."

Interpretative Declarations by the Republic of Austria with regard to the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the

conservation and management of straddling fish stocks and highly migratory fish stocks

1. The Republic of Austria understands that the terms 'geographical particularities', 'specific characteristics of the sub-region or region', 'socioeconomic geographical and environment factors', 'natural characteristics of that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.

2. The Republic of Austria understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognised by international law.

3. The Republic of Austria understands that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

5. Regarding the application of article 21, the Republic of Austria understands that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any further authority under the provisions of article 21 over such a vessel. Any dispute related to this issue shall be settled in accordance with the procedures provided for in Part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag. In addition, the Republic of Austria considers that the word 'unlawful' in article 21 (18) of the Agreement should be interpreted in the light of the whole Agreement, and in particular, articles 4 and 35 thereof.

6. The Republic of Austria reiterates that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Charter and the United Nations Convention on the Law of the Sea. In addition, the Republic of Austria underlines that the use of force as referred to in article 22 constitutes an exceptional measure which must be based on the strictest compliance with the principle of proportionality and that any abuse thereof shall imply the international liability of the inspecting State. Any case of non-compliance shall be resolved by peaceful means and in accordance with the applicable dispute-settlement procedures. Furthermore, the Republic of Austria considers that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and subregional fisheries management organisations and arrangements.

7. The Republic of Austria understands that in the application of the provisions of article 21 (6), (7) and (8), the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action."

Confirmation by the Republic of Austria of the declarations made by the European Community upon ratification of the Agreement for the implementing 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

The Republic of Austria hereby confirms the declarations made by the European Community upon ratification of the Agreement for the implementing 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,... :"

[See declarations under "European Community".]

Belgium

Declaration:

The Government of the Kingdom of Belgium recalls that as a Member of the European Community, it has transferred competence to the Community in respect of certain matters governed by the Agreement.

The Kingdom of Belgium hereby confirms the declarations made by the European Community upon ratification of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982[2] relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

[See declarations under "European Community".]

Canada

Declarations:

"Pursuant to article 30, paragraph 4 of the Agreement, the Government of Canada declares that it chooses an arbitral tribunal constituted in accordance with Annex VII of the United Nations Convention on the Law of the Sea of 10 December 1982 as the means for the settlement of disputes under Part VIII of the Agreement. In light of article 30, paragraph 1 of the Agreement, the Government of Canada also declares that it does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to disputes referred to in article 298, paragraph 1 of the Convention.

According to article 42 of the Agreement, no reservations or exceptions may be made to the Agreement. A declaration or statement pursuant to article 43 of the Agreement cannot purport to exclude or modify the legal effect of the provisions of the Agreement in their application to the State or entity making it. Consequently, the Government of Canada declares that it does not consider itself bound by declarations or statements pursuant to article 43 of the Agreement that have been made or will be made by other States or by entities described in article 2 (b) of the Agreement and that exclude or modify the legal effect of the provisions of the Agreement in their application to the State or entity making it. Lack of response by the Government of Canada to any declaration or statement shall not be interpreted as tacit acceptance of that declaration or statement. The Government of Canada reserves the right at any time to take a position on any declaration or statement in the manner deemed appropriate."

China

Upon signature:

Statement:

"It is the belief of the Government of the People's Republic of China that the [said Agreement] is an important development of the United Nations Convention on the Law of the Sea. This Agreement will have a significant impact on the conservation and management of living marine resources, especially fish resources in the high seas as well as on the international cooperation in fishery. Upon signing the Agreement, the Government of the People's Republic of China wish to make the following statement in accordance with article 43 of the Agreement:

1. About the understanding of paragraph 7 of article 21 of the Agreement: The Government of China is of the view that the enforcement action taken by the inspecting State with the authorization of the flag State involves state sovereignty and national legislation of the States concerned. The authorized enforcement action should be limited to the mode and scope as specified in the authorization by the flag State. Enforcement action by the inspecting State under such circumstances should only be that of executing the authorization of the flag state.

2. About the understanding of subparagraph (f), paragraph 1 of article 22 of the Agreement: This subparagraph provides that the inspecting State shall ensure that its duly authorized inspectors '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'. The understanding of the Chinese Government on this provision is that only when the personal safety of the authorized inspectors whose authorization has been duly verified is endangered and their normal inspecting activities are obstructed by violence committed by crew members of fishermen of the fishing vessel under inspection, may the inspectors take appropriate compulsory measures necessary to stop such violence. It should be emphasized that the action of force by the inspectors shall only be taken against

those crew members or fishermen committing the violence and must never be taken against the vessel as a whole or other crew members or fishermen."

Denmark

Declaration:

"In this respect, the Government of the Kingdom of Denmark recalls that as a Member of the European Community, Denmark has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in the Annex to this letter. This Annex also contains interpretative declarations by the European Community and its Member States to the Agreement.

At the same time, [Denmark] hereby confirms the declarations made by the European Community upon ratification of the Agreement."

[See declarations under "European Community".]

European Community

Upon signature:

Declaration concerning the competence of the European Community with regard to matters governed by the [said Agreement]

(Declaration made pursuant to article 47 of the Agreement)

"1. Article 47(1) of the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks provides that in cases where an international organization referred to in annex IX, article 1, of the Convention does not have competence over all the matter governed by the Agreement, annex IX of the Convention [with the exception of article 2, first sentence, and article 3(1)] shall apply *mutatis mutandis* to participation by such international organization in the Agreement.

2. The current members of the Community are the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

3. The Agreement on the implementation of the provisions of the [said Convention] shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular article 227 thereof.

4. This declaration is not applicable in the case of the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Agreement by the Member States concerned on behalf of and in the interests of those territories.

I. Matters for which the Community has exclusive competence

5. The Community points out that its Member States have transferred competence to it with regard to the conservation and management of living marine resources. Hence, in this field, it is for the Community to adopt the relevant rules and regulations (which the Member States enforce) and within its competence to enter into external undertakings with third States or competent organizations.

This competence applies in regard of waters under national fisheries jurisdiction and to the high seas.

6. The Community enjoys the regulatory competence granted under international law to the flag State of a vessel to determine the conservation and management measures for marine fisheries resources applicable to vessels flying the flag of Member States and to ensure that Member States adopt provisions allowing for the implementation of the said measures.

7. Nevertheless, measures applicable in respect of masters and other officers of fishing vessels, e.g., refusal, withdrawal or suspension of authorizations to serve as such, are within the competence of the Member States in accordance with their national legislation.

Measures relating to the exercise of jurisdiction by the flag State over its vessels on the high seas, in particular provisions such as those related to the taking and relinquishing of control of fishing vessels by States other than the flag State, international cooperation in respect of enforcement and the recovery of the control of their vessels, are within the competence of the Member States in compliance with Community law.

II. Matters relating for which both the Community and its Member States have competence

8. The Community shares competence with its Member States on the following matters governed by this Agreement: requirements of developing States, scientific research, port State measures and measures adopted in respect of non-members of regional fisheries organizations and non-Parties to the Agreement.

The following provisions of the Agreement apply both to the Community and to its Member States:

-- *general provisions*: (Articles 1, 4 and 34 to 50)

-- *dispute settlement*: (Part VIII)

Interpretative declarations:

1. The European Community and its Member States understand that the terms "geographical particularities", "specific characteristics of the sub-region", "socio-economic geographical and environmental factors", "natural characteristics of that sea" or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under International law.

2. The European Community and its Member States understand that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, as recognized by international law.

3. The European Community and its Member States understand that the term "States whose nationals fish on the high seas" shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

5. Regarding the application of article 21, the European Community and its Member States understand that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any other authority under the provisions of article 21 over such vessel.

Any dispute related to this issue shall be settled in accordance with the procedures provided for in Part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag.

In addition, the European Community and its Member States consider that the word "unlawful" in article 21, paragraph 18 of the Agreement should be interpreted in the light of the whole Agreement, and in particular, articles 4 and 35 thereof.

6. The European Community and its Member States reiterate that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Charter and the United Nations Law of the Sea.

Furthermore, the European Community and its Member States consider that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and sub-regional fisheries management organizations and arrangements.

7. The European Community and its Member States understand that in the application of the provisions of article 21 paragraphs 6, 7 and 8, the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action."

Upon ratification:

Declarations:

"(Declaration)

"Pursuant to article 4 of Annex IX of the Convention, rendered applicable mutatis mutandis in the context of the Agreement by virtue of its article 47 (1), the European Community accepts the rights and obligations of States under the Agreement in respect of matters relating to which competence has been transferred to it by Member States which are parties to the Agreement."

Declaration made pursuant to article 47 of the Agreement

"1. Article 47 (1) of the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks provides that 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 the Agreement, Annex IX of the Convention (with the exception of article 2, first sentence, and article 3 (1)) shall apply mutatis mutandis to participation by such international organization in the Agreement.

2. The current members of the Community are the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

3. The Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular article 227 thereof.

4. This declaration is not applicable in the case of the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Agreement by the Member States concerned on behalf of and in the interests of those territories.

I. Matters for which the Community has exclusive competence

5. The Community points out that its Member States have transferred competence to it with regard to the conservation and management of living marine resources. Hence, in this field, it is for the Community to adopt the relevant rules and regulations (which the Member States enforce) and within its competence to enter into external undertakings with third States or competent organizations. This competence applies in regard of waters under national fisheries jurisdiction and to the high seas.

6. The Community enjoys the regulatory competence granted under international law to the flag State of a vessel to determine the conservation and management measures for marine fisheries resources applicable to vessels flying the flag of Member States and to ensure that Member States adopt provisions allowing for the implementation of the said measures.

7. Nevertheless, measures applicable in respect of masters and other officers of fishing vessels, e.g., refusal, withdrawal or suspension of authorizations to serve as such, are within the competence of the Member States in accordance with their national legislation.

Measures relating to the exercise of jurisdiction by the flag State over its vessels on the high seas, in particular provisions such as those related to the taking and relinquishing of control of fishing vessels by States other than the flag State, international cooperation in respect of enforcement and the recovery of the control of their vessels, are within the competence of the Member States in compliance with Community law.

II. Matters for which both the Community and its Member States have competence

8. The Community shares competence with its Member States on the following matters governed by this Agreement: requirements of developing States, scientific research, port-State measures and measures adopted in respect of non-members of regional fisheries organizations and non-Parties to the Agreement.

The following provisions of the Agreement apply both to the Community and to its Member States:

- general provisions: (Articles 1, 4 and 34 to 50)
- dispute settlement: (Part VIII)."

Interpretative declarations deposited by the Community and its Member States upon ratification of the Agreement

"1. The European Community and its Member States understand that the terms 'geographical particularities', 'specific characteristics of the sub-region or region', 'socio-economic geographical and environmental factors', 'natural characteristics of

that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.

2. The European Community and its Member States understand that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognized by international law.

3. The European Community and its Member States understand that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

5. Regarding the application of article 21, the European Community and its Member States understand that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any further authority under the provisions of article 21 over such a vessel.

Any dispute related to this issue shall be settled in accordance with the procedures provided for in Part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag.

In addition, the European Community and its Member States consider that the word 'unlawful' in article 21, para 18 of the Agreement should be interpreted in the light of the whole Agreement, and in particular, articles 4 and 35 thereof.

6. The European Community and its Member States reiterate that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Charter and the United Nations Convention on the Law of the Sea.

In addition, the European Community and its Member States underline that the use of force as referred to in article 22 constitutes an exceptional measure which must be based upon the strictest compliance with the principle of proportionality and that any abuse thereof shall imply the international liability of the inspecting State. Any case of non-compliance shall be resolved by peaceful means and in accordance with the applicable dispute-settlement procedures.

Furthermore, the European Community and its Member States consider that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and subregional fisheries management organizations and arrangements.

7. The European Community and its Member States understand that in the application of the provisions of article 21, paragraphs 6, 7 and 8, the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action."

Finland

Declarations:

"Finland recalls that, as a Member State of the European Community, it has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in the Annex to the instrument of ratification.

Finland hereby confirms the declarations made by the European Community upon ratification of the Agreement."

[See declarations under "European Community"]

France

Upon Signature:

Declarations:

1. The Government of the French Republic recalls that the requirements for implementing the Agreement must be strictly in conformity with the 1982 United Nations Convention on the Law of the Sea.

2. The Government of the French Republic hereby declares that the provisions of article 21 and 22 apply only to maritime fishing operations.

3. These provisions cannot be regarded as capable of being extended to cover vessels engaged in maritime transport under another international instrument, or of being transferred to any instrument not dealing directly with the conservation and management of fisheries resources covered by the Agreement.

Upon ratification:

Declarations

Declaration :

In accordance with article 47.1 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 (with two annexes), done at New York on 4 December 1995, of which the United Nations is the depository, and in accordance with article 5.2 of annex IX to the United Nations Convention on the Law of the Sea, the Government of the French Republic hereby declares that, as a member of the European Community, France has transferred competences dealt with in the Agreement to the European Community. These competences are listed in an annex to this declaration.

The Government of the French Republic also confirms the content of the declarations made by the European Community upon ratification of the Agreement. *[See declarations under "European Community".]*

Interpretative declarations:

1. In ratifying 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 Government of the French Republic declares that it considers that the Agreement constitutes an important effort to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks and to promote international cooperation to that end.

2. The Government of the French Republic understands that the terms "geographical particularities", "specific characteristics of the subregion or region", "socio-economic, geographical and environmental factors", "natural characteristics of that sea" or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.

3. The Government of the French Republic understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas recognized by international law.

4. The Government of the French Republic understands that the term "States whose nationals fish on the high seas" shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

5. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transition period as referred to in article 21, paragraph 3. Thereafter, if no agreement has been reached, the States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

6. Regarding the application of article 21 of the Agreement, the Government of the French Republic understands that, when the flag State declares that it intends to exercise its authority, in accordance with article 19, over a fishing vessel flying its flag within the framework of an alleged violation committed on the high seas, the authorities of the inspecting State shall not purport to exercise any further authority under the provisions of article 21 over such a vessel. Any dispute related to this issue shall be settled in accordance with the procedures set forth in Part VIII of the

Agreement (Peaceful settlement of disputes). No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag for an alleged violation committed on the high seas. In addition, the Government of the French Republic considers that the word "unlawful" in article 21, paragraph 18, of the Agreement should be interpreted in the light of the whole Agreement, and, in particular, articles 4 and 35 thereof.

7. The Government of the French Republic reiterates that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the Charter of the United Nations and the United Nations Convention on the Law of the Sea

8. In addition, the Government of the French Republic stresses that the use of force as referred to in article 22 constitutes an exceptional measure which must be based on the strictest compliance with the principle of proportionality and that any abuse thereof shall entail the international liability of the inspecting State. Any case of non-compliance must be resolved by peaceful means, in accordance with the applicable dispute-settlement procedures. It considers, moreover, that the relevant conditions for boarding and inspection should be further elaborated in accordance with the applicable principles of international law, within the framework of the appropriate subregional and regional fisheries management organizations and arrangements.

9. The Government of the French Republic understands that, in the application of the provisions of article 21, paragraphs 6, 7 and 8, the flag State may avail itself of its legal provisions under which the prosecuting authorities have the power to decide whether or not there are grounds for prosecution in the light of all the facts of the case. Decisions by the flag State based on such provisions must not be interpreted as failure to respond or to take action.

10. The Government of the French Republic declares that the provisions of articles 21 and 22 apply only to the sole sector of sea fishing.

11. The Government of the French Republic is of the view that the provisions of articles 21 and 22 could not be considered as liable to be extended to vessels engaged in maritime transport within the framework of another international instrument or to be transposed to any instrument that does not deal directly with the conservation and management of the fish resources dealt with in the Agreement.

Germany

Declaration:

"The Federal Republic of Germany recalls that as a Member of the European Community, the Federal Republic of Germany has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in Annex I to this declaration.

The Federal Republic of Germany hereby confirms the declarations made by the European Community upon ratification of the Agreement (see Annex II)."

[See declarations under "European Community".]

Greece

Declaration:

"In this respect, the Government of the Hellenic Republic recalls that as a Member of the European Community, it has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in the Annex to this letter. The Hellenic Republic confirms the declarations made by the European Community upon ratification 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."

[See declarations under "European Community".]

India

Declaration:

"The Government of the Republic of India reserves the right to make at the appropriate time the declarations provided for in articles 287 and 298 concerning the settlement of disputes."

Ireland

Declarations:

"Pursuant to article 47 (1) of the Agreement (applying mutatis mutandis article 5 (2) and 5 (6) of Annex IX of the United Nations Convention on the Law of the Sea 1982), the Government of Ireland hereby declares that as a Member State of the European Community, Ireland has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in the Annex to this Declaration.

The Government of Ireland hereby confirms the Declarations made by the European Community upon ratification of the Agreement.

[See declarations under "European Community".]

Annex

I. Matters for which the Community has exclusive competence

1. As a Member State of the European Community, Ireland recalls that it has transferred competence to the Community with regard to the conservation and management of living marine resources. Hence, in this field, it is for the Community to adopt the relevant rules and regulations (which the Member States

enforce) and within its competence to enter into external undertakings with third States or competent organisations. This competence applies in regard of waters under national fisheries jurisdiction and to the high seas.

2. The Community enjoys the regulatory competence granted under international law to the flag State of a vessel to determine the conservation and management measures for marine fisheries resources applicable to vessels flying the flag of Member States and to ensure that Member States adopt provisions allowing for the implementation of the said measures.

3. Nevertheless, measures applicable in respect of masters and other officers of fishing vessels, for example refusal, withdrawal or suspension of authorisations to serve as such, are within the competence of the Member States in accordance with their national legislation. Measures relating to the exercise of jurisdiction by the flag State over its vessels on the high seas, in particular provisions such as those related to the taking and relinquishing of control of fishing vessels by States other than the flag State, international cooperation in respect of enforcement and the recovery of the control of their vessels, are within the competence of the Member States in compliance with Community law.

II. Matters for which both the Community and its Member States have competence

4. The Community shares competence with its Member States on the following matters governed by this Agreement: requirements of developing States, scientific research, port-State measures and measures adopted in respect of non-members of regional fisheries organisations and non-Parties to the Agreement. The following provisions of the Agreement apply both to the Community and to its Member States:

- general provisions: (articles 1, 4, and 34 to 50)
- dispute settlement: (Part VIII)."

Italy

Declaration:

"..., the Government of Italy recalls that as a Member of the European Community, it has transferred competence to the Community in respect of certain matters governed by the Agreement, which are specified in the Annex to this letter. Italy confirms the declarations made by the European Community upon ratification 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."

[See declarations under "European Community".]

Luxembourg

Declaration:

... [As a] member of the European Community, Luxembourg has transferred competence with regard to the matters governed by this Agreement to the European Community.

[Luxembourg has] the honour to confirm, ... , the declaration concerning the competence of the European Community with regard to all the matters governed by 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, included in annex B, as well as the delcarations made by the European Community regarding the ratification of the aforementioned Agreement, included in annex C.

[See declarations under "European Community".]

Malta

Declaration:

"... in terms of article 43 of the Agreement, the Government of Malta, enters the following declaration:

1. In the view of the Malta Government, the requirements of implementing the 1995 Agreement must be in conformity with the 1982 Convention on the Law of the Sea.
2. Malta understands that the terms "geographical particularities", "specific characteristics of the sub-region", "socio-economic geographical and environmental factors", "natural characteristics of that sea" or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.
3. Malta understands that no Provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, and of flag state exclusive jurisdiction over its vessels on the high seas as recognised by international law.
4. Malta understands that the term "States whose nationals fish on the high seas" shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.
5. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

6. Regarding the application of article 21, Malta understands that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any other authority under the provisions of article 21 over such vessel.

Any dispute related to this issue shall be settled in accordance with the procedures provided for in Part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel, which does not fly its flag.

In addition, Malta considers that the word "unlawful" in article 21, para. 18 of the Agreement should be interpreted in the light of the whole Agreement, and in particular, articles 4 and 35 thereof.

7. Malta reiterates that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Convention on the Law of the Sea.

Furthermore, Malta considers that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and sub-regional fisheries management organisations and arrangements.

8. Malta understands that in the application of the provisions of article 21 paragraphs 6, 7 and 8, the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action.

9. Malta hereby declares that the provisions of article 21 and 22 apply only to maritime fishing.

10. These provisions cannot be regarded as capable of being extended to cover vessels engaged in maritime transport under another international instrument, or of being transferred to any instrument not dealing directly with the conservation and management of fisheries resources covered by the Agreement.

11. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in article 21 and 22 of the Agreement.

12. Malta does not consider itself bound by any of the declarations which other States may have made, or will make, upon signing or ratifying the Agreement, reserving the right, as necessary, to determine its position with regard to each of them at the appropriate time, in particular, ratification of the Agreement does not

imply automatic recognition of maritime or territorial claims by any signatory or ratifying State.

13. Note is taken of the statement by the European Community made at the time of signature of the Agreement regarding the fact that its Member States have transferred competence to it with regard to certain aspects of the Agreement. In view of Malta's application to join the European Community, it is understood that this will also become applicable to Malta on membership.

Furthermore, the Government of Malta would like to state that should Malta accede to the European Union, it reserves the right to submit a further Declaration in line with future declarations by the European Union."

Netherlands

Upon signature

Declaration in respect of article 47:

Upon signing the Agreement the Netherlands recalls that, as a Member State of the European Community, it has transferred competence to the Community with respect to certain matters governed by the Agreement. A detailed declaration on the nature and extent of the competence transferred to the European Community has been made by the European Community on the occasion of its signature of the Agreement, in accordance with article 47 of the Agreement.

Interpretative declarations made upon signature of the Agreement:

[Same interpretative declarations, mutatis mutandis, as those made under European Community.]

Upon ratification

Declarations:

"The Government of the Kingdom of the Netherlands recalls that as a member of the European Community it has transferred competence to the Community in respect of certain matters governed by the Agreement.

... the Government of the Kingdom of the Netherlands [confirms] the declarations made by the European Community upon ratification of the Agreement for the Implementing of the Provisions of the United Nations Convention on the Law of Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and Highly Migratory Fish Stocks. In this respect, ... [the Government of the Kingdom of the Netherlands confirms] the declarations¹ made by the European Community upon ratification of the Agreement for the Implementing of the Provisions of the United Nations Convention on the Law of Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

[See declarations under "European Community".]

Norway

"Declaration pursuant to article 43 of the Agreement:

According to article 42 of the Agreement, no reservations or exceptions may be made to the Agreement. A declaration pursuant to its article 43 cannot have the effect of an exception or reservation for the State making it. Consequently, the Government of the Kingdom of Norway declares that it does not consider itself bound by declarations pursuant to article 43 of the Agreement that are or will be made by other States or international Organisations. Passivity with respect to such declarations shall be interpreted neither as acceptance nor rejection of such declarations. The Government reserves Norway's right at any time to take a position on such declarations in the manner deemed appropriate.

Declaration pursuant to article 30 of the Agreement:

The Government of the Kingdom of Norway declares pursuant to article 30 of the Agreement, cf. article 298 of the United Nations Convention on the Law of the Sea, that it does not accept an arbitral tribunal constituted in accordance with Annex VII of the United Nations Convention on the Law of the Sea for 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 3, of the United Nations Convention on the Law of the Sea, in the event that such disputes might be considered to be covered by this Agreement."

Portugal

Declaration:

"The Government of Portugal recalls that [as] a Member of the European Community it has transferred competence to the Community in respect of certain matters governed by the Agreement. Portugal hereby confirms the declarations made by the European Community upon ratification of the Agreement for the Implementing 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."

[See declarations under "European Community".]

Russian Federation

Declaration:

The Russian Federation states that it considers that the procedures for the settlement of disputes set forth in article 30 of [the said Agreement] include all the provisions of part XV of the United Nations Convention on the Law of the Sea that are applicable to the consideration of disputes between States Parties to the Agreement.

The Russian Federation states that, taking into account articles 42 and 43 of the Agreement, it objects to all declarations and statements which were made in the past and which may be made in the future when signing, ratifying or acceding to the Agreement or on any other occasion in connection with the Agreement and which are not in accordance with article 43 of the Agreement. It is the position of the Russian Federation that such declarations and statements, in whatever form they may be made and however they may be named, cannot exclude or modify the legal force of the provisions of the Agreement in their application to a Party to the Agreement that has made such a declaration or statement, and therefore will not be taken into consideration by the Russian Federation in its relations with that Party to the Agreement.

Spain

Declarations:

Declaration:

Spain, as a member of the European Community, points out that it has transferred competence to the Community with regard to a number of matters regulated by the Fish Stocks Convention. Spain hereby reaffirms the declarations made by the European Community upon ratifying 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.

[See declarations under "European Community".]

Interpretative declarations:

1. Spain understand that the terms "geographical particularities", "specific characteristics of the subregion or region", "socio-economic, geographical and environmental factors", "natural characteristics of that sea" or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.
2. Spain understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognized by international law.
3. Spain understand that the term "States whose nationals fish on the high seas" shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.
4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21, paragraph 3.

Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.

5. Regarding the application of article 21, Spain understands that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions of article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any further authority under the provisions of article 21 over such a vessel.

Any dispute related to this issue shall be settled in accordance with the procedures provided for in part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag.

In addition, Spain considers that the word "unlawful" in article 21, paragraph 18 of the Agreement should be interpreted in the light of the whole Agreement, particularly, articles 4 and 35 thereof.

6. Spain reiterates that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Charter and the United Nations Convention on the Law of the Sea.

In addition, Spain underlines that the use of force as referred to in article 22 constitutes an exceptional measure which must be based upon the strictest compliance with the principle of proportionality and that any abuse thereof shall imply the international liability of the inspecting State. Any case of non-compliance shall be resolved by peaceful means and in accordance with the applicable dispute-settlement procedures.

Furthermore, Spain considers that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and subregional fisheries management organizations and arrangements.

7. Spain understand that in the application of the provisions of article 21, paragraphs 6, 7 and 8, the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action.

8. Spain is of the view that the constituent conventions of regional fisheries management organizations such as the Northwest Atlantic Fisheries Organization, the North-East Atlantic Fisheries Commission and the International Commission for the Conservation of Atlantic Tunas, given their status as special international agreements, have legal precedence over the New York Agreement, which sets forth general rules on the conservation and management of straddling fish stocks and highly migratory fish stocks. Part VI of the Agreement, "Compliance and enforcement", laying down boarding and inspection procedures, is therefore to be

regarded as a regulation subordinate to alternative mechanisms established by subregional or regional fisheries management organizations which effectively discharge the obligations under the New York Agreement of their members or participants to ensure compliance with the conservation and management measures established by such organizations or arrangements.

9. Spain understands that in article 8, paragraph 3, of the Agreement the term "a real interest" used with reference to States which may be members of a regional fisheries management organization shall be regarded as meaning that a regional fisheries management organization must in all circumstances be open to any State whose fleet fishes or has fished in the area covered by the constituent convention of such organization, in respect of which fleet the flag State has the authority to ensure compliance and enforcement. Participation in such organizations by the States in question shall indicate their real interest in the fisheries.

10. Spain, as a member of the European Community, points out that it has transferred competence to the Community with regard to a number of matters regulated by the Fish Stocks Convention. Spain hereby reaffirms the declarations made by the European Community upon ratifying 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.

Sweden

Declaration:

"The Kingdom of Sweden recalls that, as a Member of the European Community, it has transferred competence to the Community in respect of certain matters governed by the Agreement. The Kingdom of Sweden hereby confirms the declarations made by the European Community upon ratification 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."

[See declarations under "European Community".]

United Kingdom of Great Britain and Northern Ireland

Declaration:

"[The Government of the United Kingdom has the honour to declare], in accordance with article 47 (1) of the Agreement (applying mutatis mutandis article 5 (2) and (6) of Annex IX of the United Nations Convention on the Law of the Sea 1982), that as a Member of the European Community, the United Kingdom has transferred competence to the European Community in respect of certain matters governed by the Agreement, which are specified in the Annex to this declaration.

[See declarations under "European Community".]

[The Government of the United Kingdom hereby confirms] the declarations made by the European Community upon ratification of the Agreement, and confirm that the interpretative declarations made by the European Community shall apply also to the United Kingdom's ratification of the said Agreement in respect of certain Overseas Territories, namely Pitcairn, Henderson, Ducie and Oeno Islands, Falkland Islands, South Georgia and South Sandwich Islands, Bermuda, Turks and Caicos Islands, British Indian Ocean Territory, British Virgin Islands and Anguilla."

[See declarations under "European Community".]

United States of America

Declaration:

"In accordance with article 30 (4) of the Agreement, the Government of the United States of America declares that it chooses a special arbitral tribunal to be constituted in accordance with Annex VIII of the United Nations Convention on the Law of the Sea of 10 December 1982 for the settlement of disputes pursuant to Part VIII of the Agreement."

Uruguay

Declarations made upon signature and confirmed upon ratification:

1. The objective of the Agreement, as set out in article 2, is to establish an appropriate legal framework and a comprehensive and effective set of measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.
2. The effectiveness of the regime established will depend, *inter alia*, on whether the conservation and management measures that are applied in areas beyond national jurisdiction take duly into account and are compatible with, those adopted by the relevant coastal States with respect to the same stocks in areas under their national jurisdiction, as provided for in article 7.
3. Among the biological characteristics of a fish stock as a factor of which special account must be taken in determining compatible conservation and management measures, in accordance with article 7, paragraph 2(d), Uruguay attaches particular importance to the reproduction period of the fish stock in question, in order to ensure a sound and balanced approach to protection.
4. Moreover, in order for the above-mentioned regime to be fully effective, in accordance with the objective and purpose of the Agreement, it is necessary to adopt emergency conservation and management measures, as stated in article 6, paragraph 7, where a serious threat exists to the survival of one or more straddling fish stocks or highly migratory fish stocks as a result of a natural phenomenon or human activity.

5. Uruguay is of the view that, if an inspection carried out by a port State on a fishing vessel which is voluntarily present in one of its ports reveals that there are evident grounds for believing that the said fishing vessel has been involved in an activity that is contrary to the sub-regional or regional conservation and management measures on the high seas, then, in exercise of its right and duty to cooperate in conformity with article 23 of the Agreement, the port State should so inform the flag State and request that it take over responsibility for the vessel for the purpose of ensuring compliance with the said measures.

NOTES :

¹ The Government of Italy had deposited an instrument of ratification on 4 March 1999 which it withdrew on 4 June 1999, indicating the following : "Italy intends to withdraw the instrument of ratification it deposited on 4 March 1999, in order to proceed subsequently to complete that formality in conjunction with all the States members of the European Union."

² The Government of Luxembourg had deposited an instrument of ratification on 5 October 2000, which it withdrew on 21 December 2000, indicating the following: The Permanent Mission of the Grand Duchy of Luxembourg had indeed received instructions to deposit the instrument of ratification of the above-mentioned Agreement with the Secretary-General of the United Nations; this was done on 5 October 2000. It turned out, however, that deposit on that date was premature since, in accordance with decision 98/414/CE of the Council of the European Union, of 8 June 1998, the instrument was to be deposited simultaneously with the instruments of ratification of all States members of the European Union.

Accordingly, [the Government of Luxembourg would] be grateful if [the Secretary-General] would note that Luxembourg wishes to withdraw the instrument of ratification deposited on 5 October 2000. A simultaneous deposit of the instruments of the Community and of all member States is to take place subsequently.

³ For the Kingdom in Europe.

⁴ With a territorial application in respect of Tokelau

⁵ On 19 December 2003, an instrument of ratification was lodged by the United Kingdom of Great Britain and Northern Ireland (on behalf of the United Kingdom of Great Britain and Northern Ireland).

On 4 December 1995, the Agreement was signed by the Government of the United Kingdom of Great Britain and Northern Ireland on behalf of Bermuda, British Indian Ocean Territory, British Virgin Islands, Falkland Islands, Pitcairn Islands,

South Georgia and the South Sandwich Islands, St. Helena including Ascension Island, and Turks and Caicos Islands.

Further, in a communication received on 19 January 1996, the Government of the United Kingdom informed the Secretary-General of the United Nations that the signature of 4 December 1995 would also apply to Anguilla.

Subsequently, on 27 June 1996, the Agreement was signed by the United Kingdom for the United Kingdom of Great Britain and Northern Ireland.

On 3 December 1999, an instrument of ratification was lodged by the United Kingdom on behalf of Pitcairn, Henderson, Ducie and Oeno Islands, Falkland Islands, South Georgia and South Sandwich Islands, Bermuda, Turks and Caicos Islands, British Indian Ocean Territory, British Virgin Islands and Anguilla with the following declarations:

"1. The United Kingdom understands that the terms 'geographical particularities', 'specific characteristics of the sub-region or region', 'socio-economic geographical and environmental factors', 'natural characteristics of that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.

2. The United Kingdom understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognized by international law.

3. The United Kingdom understands that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in Article 21(3). Thereafter, if no agreement has been reached, states shall act only in accordance with the provisions provided for in Articles 21 and 22 of the Agreement."

Upon a request for clarification as to why the above ratification excluded the metropolitan territory of the United Kingdom of Great Britain and Northern Ireland, and subsequent consultations, the following additional declaration was provided by the United Kingdom of Great Britain and Northern Ireland on 10 December 2001:

"1. The United Kingdom is a keen supporter of the Straddling Fish Stocks Agreement. Legislation of the European Communities (Council decision 10176/97 of 8 June 1998) binds the United Kingdom as a matter of EC law to deposit its instrument of ratification in relation to the metropolitan territory simultaneously with the European Community and the other Member States.

It is hoped that this event will take place later this year. The constraints imposed by that Council decision only apply in respect of the United Kingdom metropolitan territory and those overseas territories to which the EC treaties apply.

2. In the light of its temporary inability to ratify the Agreement in relation to the metropolitan territory, and the strong desire of the United Kingdom to implement the Agreement in respect of those overseas territories to which the EC treaty does not apply, because of the advantages it will bring to them, the United Kingdom lodged its instrument of ratification to the Agreement, with declarations, in respect of those overseas territories on 3 December 1999.

3. The United Kingdom is concerned that upon entry into force of the Agreement, the overseas territories covered by this ratification should enjoy the rights and obligations accruing under the Agreement. I would therefore be grateful if you would arrange for the above formal declaration to be circulated in order to make it clear to all concerned the nature of the United Kingdom's approach to ratification of this convention. ..."

Accordingly, the above action was accepted in deposit on 10 December 2001, the date on which the second declaration was lodged with the Secretary-General.

The Secretary-General had received from the following States the following:

Argentina (4 December 1995):

The Argentine Republic rejects the inclusion of and reference to the Malvinas, South Georgian and South Sandwich Islands by the United Kingdom of Great Britain and Northern Ireland as dependent territories in its signing of the [said] Agreement, and reaffirms its sovereignty over those islands, which form an integral part of its national territory, and over their surrounding maritime spaces.

The Argentine Republic recalls that the United Nations General Assembly has adopted resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 39/6, 40/21, 41/40, 42/19 and 43/25, in which it recognizes the existence of a sovereignty dispute and requests the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to initiate negotiations with a view to finding the means to resolve peacefully and definitively the problems pending between both countries, including all aspects on the future of the Malvinas Islands, in accordance with the Charter of the United Nations.

United Kingdom (19 January 1996):

"The Government of the United Kingdom of Great Britain and Northern Ireland have noted the declaration of the Government of Argentina. The British Government have no doubt about the sovereignty of the United Kingdom over the Falkland Islands, as well as South Georgia and the South Sandwich Islands, and have no doubt, therefore, about their right to extend the said Agreement to these territories. The British Government can only reject as unfounded the claim by the Government of Argentina that they are a part of Argentine territory."

Mauritius (upon accession):

Declaration:

"The Republic of Mauritius rejects the inclusion of any reference to the so-called British Indian Ocean Territory by the United Kingdom of Great Britain and Northern Ireland as territories on whose behalf it could sign the said Agreement, and reaffirms its sovereignty over these islands, namely the Chagos Archipelago which form an integral part of the national territory of Mauritius and over their surrounding maritime spaces."

United Kingdom (30 July 1997):

"...[the Government of the United Kingdom declares that it] has no doubt as to the United Kingdom sovereignty over the British Indian Ocean Territory."

Mauritius (8 February 2000):

"... The Republic of Mauritius rejects as unfounded the claim by the United Kingdom of Great Britain and Northern Ireland of its sovereignty over the so-called British Indian Ocean Territory (Chagos Archipelago) and reaffirms its sovereignty and sovereign rights over the Chagos Archipelago which forms an integral part of the national territory of the Republic of Mauritius and over their surrounding maritime zones."

Further, on 8 February 2002, the Secretary-General received from the Government of Argentina, the following communication:

In that regard, the Argentine Republic rejects the claim of extension of the application of the Agreement to the Malvinas, South Georgia and South Sandwich Islands communicated by the United Kingdom of Great Britain and Northern Ireland and lodged on 10 December 2001.

With regard to the question of the Malvinas, United Nations General Assembly resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25 recognize the existence of a dispute over sovereignty and request the Argentine Republic and the United Kingdom to resume negotiations in order to find a peaceful and lasting solution to the dispute, with assistance from the good offices of the Secretary-General of the United Nations, who is required to inform the General Assembly of the progress made.

The Argentine Republic reaffirms its rights of sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas, which are an integral part of its national territory.

The Argentine Republic reserves the right to express, at the appropriate time, its opinion concerning other aspects of the communication by the United Kingdom.

In this regard, the Secretary-General received from the Government of the United Kingdom on 17 June 2002, the following communication:

".....the United Kingdom rejects the Argentine objection to the ratification of the Agreement by the United Kingdom on behalf of the Falkland Islands, South Georgia and the South Sandwich Islands and the assertion by Argentina of rights of sovereignty over those territories and their surrounding maritime areas.

The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas."

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