

DRAFT AMENDMENTS

Agreement for the Establishment of the General Fisheries Commission for the Mediterranean and the Black Sea and Connecting Waters (GFCM)

Preamble

The Members,

Determined to ensure the long-term conservation and sustainable use of fishery resources in the Mediterranean Sea, the Black Sea and connecting waters,

Recalling relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Further recalling the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993, as well as other relevant international instruments concerning the conservation and management of fishery resources,

Taking into account the Code of Conduct for Responsible Fisheries adopted by the Conference of the Food and Agriculture Organization of United Nations, hereafter "FAO", at its twenty eighth session on 31 October 1995 and related instruments adopted by the FAO,

Recognizing the economic and social benefits deriving from sustainable use of fishery resources of the Mediterranean and Black Sea and connecting waters;

Further recognizing that under international law States are required to cooperate in the conservation and management of fishery resources,

Affirming that aquaculture plays a vital role in the promotion and better use of fishery resources, including food security,

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 use and farming of fishery resources,

Mindful that effective conservation and management measures must be based on the best scientific information available and on the application of the precautionary approach and an ecosystem approach to fisheries management,

Determined to cooperate effectively to prevent, deter and eliminate illegal, unreported and unregulated fishing,

Recognizing the special requirements of developing States to allow them to participate effectively in the conservation, management and farming of the fishery resources,

Convinced that the long-term conservation and sustainable use and farming of fishery resources in the Mediterranean Sea and in the Black Sea and connecting waters, and the protection of the marine ecosystems in which those resources occur are best achieved through international cooperation within the General Fisheries Commission for the Mediterranean, the Black Sea and Connecting Waters established under Article XIV of the Constitution of the Food and Agriculture Organization of the United Nations,

Have agreed as follows:

Article 1
Use of terms

For the purposes of this Agreement

- (a) “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) “1995 Agreement” means the Agreement for the Implementation of the Provisions of the United Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995;
- (c) “Agreement Area” is the area of application described in Article 3;
- (d) “aquaculture” means the farming of fishery resources;
- (e) “Commission” refers to the General Fisheries Commission of the Mediterranean, the Black Sea and the Connecting Waters established pursuant to Article 6;
- (f) “conservation and management measures” means measures to conserve and manage one or more species of fishery resources and includes measures for their implementation and compliance;
- (g) “fishery resources” means all species of living marine resources, whether processed or not;
- (h) “fishing” means searching for, attracting, locating, catching, taking or harvesting of fishery resources or any activity which can reasonably be expected to result in attracting, locating, catching, taking or harvesting of fishery resources;
- (i) “fishing activities” means fishing and aquaculture;
- (j) “fishing related activities” means any operation in support of, or in preparation for fishing activities, including landing, packaging, processing, transshipping or transporting of fish, as well as provisioning of personnel, fuel, gear and other supplies;
- (k) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

- (l) “Member” means any State and regional economic integration organization comprising the Commission pursuant to Article 4;
- (m) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make binding decisions on its member States in respect of those matters; and
- (n) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for fishing or fishing related activities.

Article 2
Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of fishery resources and the sustainable development of aquaculture and, in doing so, to safeguard the marine ecosystems in which these resources occur and development takes place.

Article 3
Area of application

1 The geographical area of application, hereafter the “Agreement Area”, comprises all marine waters of the Mediterranean Sea, the Black Sea and connecting waters as bounded to the west by a line running from a point on the coast of Morocco at 5°36’ west longitude to the coast of Spain (isthmus of Punta Marroqui).

2 Nothing in this Agreement shall constitute recognition of claims or positions of any Member concerning legal status and extent of waters and zones by any such Member.

Article 4
Membership

The Commission shall be composed of such members and associate members of the FAO and such non-members of the FAO as are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, which has consented to be bound by this Agreement, and for which the Agreement is in force that are;

- (a) coastal States situated wholly or partly within the Agreement Area;
- (b) States whose vessels are engaged in fishing or fishing related activities in the Agreement Area; or
- (c) regional economic integration organizations of which any State referred to in paragraphs (a) or (b) is a member State.

Article 5
General principles

In giving effect to the objective of this Agreement, the Members shall:

- (a) promote the long-term sustainability and optimum utilization of fishery resources;
- (b) adopt conservation and management measures based on the best scientific advice available, taking into account relevant environmental, economic and social factors;
- (c) apply the precautionary approach in accordance with Article 6 of the 1995 Agreement;
- (d) take due account of the impact of fishing activities on other species and marine ecosystems and in doing so, adopt measures to minimize harmful impacts;
- (e) take due account of the need to preserve marine biological diversity;
- (f) prevent or eliminate overfishing and excess fishing capacity, and ensure that levels of fishing effort do not exceed those commensurate with sustainable use of fishery resources;
- (g) ensure that complete and accurate data concerning fishing activities are collected and shared among them in a timely manner;
- (h) take due account of the need to minimize pollution and waste originating from fishing activities as well as minimize discards, catch by lost or abandoned gear, catch of species not subject to a directed fishery and impacts on associated or dependent species;
- (i) consider aquaculture, including culture-based fisheries; as a means to promote diversification of income and diet and in so doing ensure that fishery resources are used responsibly, genetic diversity is conserved and adverse impacts on the environment and local communities are minimized;
- (j) foster, as appropriate, a subregional approach to conservation and management of fishery resources; and
- (k) make best efforts to effectively implement all decisions of the Commission, including imposing penalties for violations that are of appropriate severity to secure compliance, discourage further violations and deprive offenders of the benefits accruing from their illegal activities.

Article 6
The Commission

1 There is hereby established within the framework of FAO a Commission to be known as the General Fisheries Commission for the Mediterranean and the Black Sea and Connecting Waters, hereafter “the Commission”, for the purpose of exercising the functions and discharging the responsibilities set out in this Agreement

2 Each Member shall be a Member of the Commission, and each Member shall have one vote.

3 Each Member shall designate one representative to the Commission who at sessions of the Commission may be accompanied by an alternate representative and advisers.

Participation in meetings by alternates shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his or her absence.

4 The Commission shall elect a Chairperson and two Vice-Chairpersons from among the Members, each of whom shall serve for a term of (xx) years and shall be eligible for re-election but shall not serve for more than (xx) years in succession in the same capacity. The Chairperson and the Vice-Chairpersons shall be representatives of different Members.

5 Meetings of the Commission shall be convened once a year unless the Commission decides otherwise, at a time and location to be decided by the Commission in consultation with the Members and the FAO. The Commission shall hold such other meeting as may be necessary to carry out its functions under this Agreement.

6 The principle of cost-effectiveness shall apply to the frequency, duration and scheduling of sessions and other meetings and activities held under the auspices of the Commission.

7 The Headquarters of the Commission shall be in Rome, Italy.

Article 7 *Functions of the Commission*

The Commission shall, in accordance with its objective, exercise the following functions:

- (a) regularly review the state of fishery resources;
- (b) adopt conservation and management measures for fishery resources, including:
 - (i) where necessary, for species belonging to the same ecosystem as, or associated with or dependent upon, fishery resources;
 - (ii) to minimize impacts for fishing activities on living marine resources and their ecosystems; and
 - (iii) where appropriate, on a subregional basis.
- (c) establish, in collaboration with other relevant international organizations, marine protected areas;
- (d) determine, when appropriate, total allowable catch, or total allowable level of effort, and where necessary, the nature and extent of participation in fishing activities;
- (e) adopt measures for the collection, submission, verification, storing and dissemination of data and information;
- (f) promote the development and use of electronic means to facilitate communication and exchange of data and information among Members;

- (g) establish such mechanisms as may be required for the purpose of reviewing the recommendations of any subsidiary body or working group and, as appropriate, transmitting them directly to the Commission for decision;
- (h) adopt measures and take actions to prevent, deter and eliminate illegal, unreported and unregulated fishing;
- (i) regularly review the implementation of decisions into national legislation;
- (j) elaborate multiannual management plans for the conservation and management of fishery resources, including at the sub-regional level;
- (k) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance, compliance and enforcement, including sanctions such as non-discriminatory market-related measures;
- (l) promote and coordinate, and as appropriate, undertake scientific research and development activities;
- (m) promote programmes concerning aquaculture and coastal fisheries development and enhancement;
- (n) facilitate trade by promoting the implementation of internationally accepted sanitary and phytosanitary standards;
- (o) regularly review the socio-economic aspects of the fishing industry, including obtaining and evaluating economic and other data and information relevant to the work of the Commission;
- (p) promote, coordinate and, as appropriate, strengthen the development of institutional capacity and human resources, particularly through education, training and extension activities in areas of competence of the Commission;
- (q) enhance communication and consultation with civil society concerned with aquaculture, fishing and fishing related activities;
- (r) adopt its Rules of Procedure and Financial Regulations and such other internal administrative regulations as may be necessary to carry out its functions;
- (s) approve the budget and programme of work of the Commission; and
- (t) exercise any other function as may be necessary for achieving the objective of this Agreement.

Article 8
Subsidiary bodies of the Commission

1 There are hereby established as permanent subsidiary bodies of the Commission a Scientific Advisory Committee, an Advisory Committee on Aquaculture, a Compliance Committee and a Committee on Administration and Finance to provide advice and

recommendations to the Commission on matters within their respective areas of competence and carry out such other activities as requested from time to time by the Commission.

2 The Commission may establish such other subsidiary bodies as may be necessary to meet the objective of this Agreement. The Commission shall provide specific mandates to any such subsidiary body, which shall include terms of reference, methods of work and reporting requirements.

3 The establishment of such additional subsidiary bodies shall be subject to the availability of necessary funds. Before taking any decision involving expenditure in connection with the establishment of such subsidiary bodies, the Commission shall have before it a report from the Executive Secretary on administrative and financial implications.

4 All subsidiary bodies may establish working groups.

5 Each Member shall be entitled to appoint one representative to any subsidiary body who at sessions may be accompanied by alternates, experts and advisers.

6 Members shall provide information relevant to the functions of each subsidiary body in such a way as to enable them to fulfil their responsibilities.

7 Any subsidiary body shall operate under the Rules of Procedure of the Commission unless otherwise decided by the Commission.

Article 9 *The Scientific Advisory Committee*

The Scientific Advisory Committee shall provide advice on the technical and scientific basis for the conservation and management of fishery resources, including biological, environmental, social and economic aspects, and, shall in particular:

- (a) assess information provided by Members and relevant organizations, institutions or programmes on catches, fishing effort, fleet capacity and other relevant data;
- (b) assess status and trends of the relevant populations of fishery resources;
- (c) identify and reinforce cooperative research programmes and coordinate their implementation;
- (d) transmit advice and reports to the Commission regarding conservation and management measures and research;
- (e) transmit recommendations to the Commission including as appropriate through a review panel that may be established pursuant to Article 7, paragraph (f); and
- (f) undertake such other functions or responsibilities as may be conferred on it by the Commission.

Article 10
The Advisory Committee on Aquaculture

1 The Advisory Committee on Aquaculture shall monitor trends and promote the sustainable development and responsible management of marine and brackish water aquaculture.

2 The Advisory Committee on Aquaculture shall provide advice on technical, socio-economic, legal and environmental bases for common standards, norms and guidelines management measures, and the development and promotion of sustainable aquaculture and, shall, in particular:

- (a) assess information provided by Members and relevant aquaculture stakeholders or programmes on production statistics, market data, culture systems, technologies used, farmed species and maintain related databases including relevant socio-economic, environmental, biotic and abiotic indicators;
- (b) strengthen capacity building at regional and subregional level;
- (c) identify cooperative research and training programmes and coordinate their implementation;
- (d) establish partnerships and other cooperative mechanisms with relevant organizations and institutions to foster their involvement in its work;
- (e) provide advice to the Commission; and
- (f) undertake other functions or responsibilities as may be conferred on it by the Commission.

Article 11
The Compliance Committee

The Compliance Committee shall:

- (a) review compliance with conservation and management measures adopted by the Commission, including those related to monitoring, control, surveillance and enforcement, and make such advice and recommendations to the Commission as may be necessary to ensure their effectiveness;
- (b) provide such other information, technical advice and recommendations as it considers appropriate or as may be requested by the Commission relating to the implementation and compliance with provisions of this Agreement and the conservation and management measures adopted by the Commission;
- (c) review the implementation of any cooperative measures for monitoring, control and surveillance and enforcement adopted by the Commission and provide advice and recommendations to the Commission in this regard;

- (d) monitor, review and analyze information pertaining to fishing activities of non-Members and their vessels that are presumed to undermine the objectives of this Agreement, and recommend actions to be taken by the Commission to combat such activities; and
- (e) undertake other functions or responsibilities as may be conferred on it by the Commission.

Article 12
The Committee on Administration and Finance

The Committee on Administration and Finance shall:

- (a) review administrative matters relating to the Secretariat and make appropriate recommendations to the Commission;
- (b) review compliance with the Rules of Procedure and the Financial Regulations and make recommendations to the Commission, including as appropriate for amendment of these Rules and Regulations;
- (c) review the implementation of the previous programme of work and budget, and analyze and make recommendations to the Commission on the draft programme of work and budget; and
- (d) undertake other functions or responsibilities as may be conferred on it by the Commission.

Article 13
Subregional working groups

1 There are hereby established sub-regional working groups for the Western, Central, Adriatic and Ionian, Eastern and Black Sea subregions for the purposes of performing functions to meet the objective and principles of this Agreement and supporting as appropriate the functions of the Commission, taking into account the special requirements of each subregion.

2 The subregional working groups shall cooperate closely with, in particular, the Scientific Advisory Committee and the Advisory Committee on Aquaculture in performing their functions.

3 The areas of application, functions and responsibilities of each subregional working group shall be set out in the Rules of Procedure of the Commission.

Article 14
The Bureau

1 The Bureau shall be composed of the Chairperson and the two Vice-Chairpersons referred to in Article 6, paragraph 4.

2 The Bureau shall:

- a) review and consider a strategy and work plan with the assistance of the Secretariat for consideration by the Commission, and monitor its implementation;
- b) ensure that policies and decisions of the Commission are operationalized;
- c) coordinate and monitor the work of the committees and the subregional working groups established under Article 8, paragraph 1 and Article 13, paragraph 1 respectively; and
- d) undertake other functions or responsibilities as may be conferred on it by the Commission.

Article 15
Secretariat

1 The Secretariat shall consist of the Executive Secretary, and such staff as may be appointed by him or her and under his or her supervision unless otherwise provided in the Rules of Procedure.

2 The Executive Secretary shall be appointed by the Director-General of the FAO following the approval of the Commission in accordance with the selection procedure agreed upon by the Commission. The Executive Secretary and the staff of the Commission shall be appointed under the same terms and conditions as staff members of the FAO.

3 In the exercise of his or her functions, the Executive Secretary shall have direct relations with all Members and with the FAO Secretariat.

4 The Executive Secretary shall:

- (a) be responsible for the implementation of the policies and activities of the Commission;
- (b) maintain contacts with relevant governments, international organizations and institutions;
- (c) be responsible for the receipt, collection, circulation, drafting and presentation of documents for the Commission sessions and subsidiary bodies;
- (d) stimulate interests among Members and potential donors in Commission activities and in possible financing or implementing cooperative programmes, projects and complementary activities;
- (e) transmit reports of the Commission and its subsidiary bodies to the Director-General of the FAO;
- (f) provide services to the Commission and its subsidiary bodies to facilitate the execution of their functions; and
- (g) undertake other functions or responsibilities as may be conferred on him or her by the Commission.

Article 16
Financial arrangements

1 The Commission may adopt and amend, as required, the Financial Regulations of the Commission by a two-thirds majority of its Members, which shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO.

2 At each regular session, the Commission shall adopt its autonomous budget by consensus of its Members, provided however that if, after every effort has been made, a consensus cannot be reached in the course of that session, the matter will be put to a vote and the budget shall be adopted by a two-thirds majority of its Members.

3 Each Member shall undertake to contribute annually its share of the autonomous budget in accordance with a scale of contributions determined in accordance with a scheme which the Commission shall adopt or amend by consensus. The scheme shall be set out in the Financial Regulations.

4 Any non-member of the FAO that becomes a Member shall be required to make such contribution towards the expenses incurred by the FAO with respect to the activities of the Commission as the Commission may determine.

5 Contributions shall be payable in freely convertible currencies unless otherwise determined by the Commission with the concurrence of the Director-General of the FAO.

6 The Commission may also accept donations and other forms of assistance from organizations, individuals and other sources for purposes connected with the fulfillment of any of its functions.

7 Contributions and donations and other forms of assistance received shall be placed in a trust fund administered by the Director-General of the FAO in conformity with the Financial Regulations of the FAO.

8 A Member which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member but in no case shall it extend the right to vote beyond a further two calendar years.

Article 17
Expenses

1 The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives sent to committees or working groups shall be determined and paid by the respective Members.

2 The expenses of the Secretariat, including publications and communications and the expenses incurred by the Chairperson and Vice-Chairpersons of the Commission, when

performing duties on behalf of the Commission between sessions of the Commission, shall be determined and paid from the budget of the Commission.

3 The expenses of research and development projects undertaken by individual Members, whether independently or upon recommendation of the Commission, shall be determined and paid by the Members concerned.

4 The expenses incurred in connection with cooperative research or development projects undertaken in accordance with Article 7, paragraph (k), unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Contributions for cooperative projects shall be paid into a trust fund to be established by the FAO and shall be administered by the FAO in accordance with the Financial Regulations and Rules of the FAO.

5 The expenses of experts invited to attend meetings of the Commission, committees or working groups in their individual capacity shall be borne by the budget of the Commission.

6 The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a trust fund to be established by the FAO. The acceptance of such voluntary contributions and the administration of the trust fund shall be in accordance with the Financial Regulations and Rules of the FAO.

7 The expenses of the Commission shall be paid out of its autonomous budget except those relating to such staff and facilities as can be made available by the FAO. The expenses to be borne by the FAO shall be determined and paid within the limits of the biennial budget prepared by the Director-General and approved by the Conference of the FAO in accordance with the Financial Regulations and Rules of the FAO.

8 Expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission, its subsidiary bodies, as well as the expenses incurred by observers at sessions, shall be borne by the respective governments or organizations. The expenses of experts invited by the Commission to attend, in their individual capacity, meetings of the Commission or its subsidiary bodies and working groups shall be borne by the budget of the Commission.

Article 18 *Decision making*

1 As a general rule, decisions by the Commission shall be taken by consensus. For the purposes of the Article, “consensus” means the absence of any formal objection made at the time the decision was taken.

2 If the Chairperson considers that all efforts to take decisions by consensus have been exhausted, the Commission shall take decisions by a simple majority of its Member present and voting, with the exception of binding decisions provided in paragraphs 3 to 8, or unless otherwise provided in this Agreement.

3 The Commission may take decisions that are binding on Members relating to conservation and management measures, which shall be taken by two-thirds majority of the

votes of all Members present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Members. Each Member shall have one vote.

4 Decisions by the Commission shall become binding on Members in the following manner:

- (a) the Executive Secretary shall without delay notify the Members of decisions taken by the Commission; and
- (b) subject to paragraph 3, the decision shall become binding upon all Members (xx) days from the date specified in the notification.

5 A Member may present to the Executive Secretary an objection to a decision within (xx) days from the date specified under sub-paragraph 4(b). In that event the decision shall not become binding on that Member.

6 A Member which objects shall at the same time provide a written explanation of reasons for objecting, and where appropriate, its proposals for alternative measures which the Member is going to implement. The explanation shall specify *inter alia* whether the basis for the objection is that the Member considers that the measure is inconsistent with this Agreement, the Member cannot practicably comply with the measure, the measure unjustifiably discriminates in form or in fact against the Member or other special circumstances apply.

7 In the event that objections to a decision are made by more than one-third of the Members, the other Members shall not be bound by the decision, but shall not preclude any or all of them from giving effect thereto.

8 A Member may withdraw an objection at any time and the decision shall then become binding in accordance with sub-paragraph 4(b).

9 The Executive Secretary shall promptly notify all Members of:

- (a) the receipt and withdrawal of any objection; and
- (b) the reasoning for the objection and alternative measures pursuant to paragraph 6.

10 Any Member that is bound by a decision in accordance with this Article has a duty to implement such decision in its national laws and procedures upon the entry into force of such decision.

11 In exceptional circumstances as determined by the Executive Secretary in consultation with the Chairperson, when urgent matters require Members to take decisions between sessions of the Commission, any rapid means of communication may be used for decision-making with respect to procedural and administrative matters of the Commission, including any of its subsidiary bodies or working parties, other than matters relating to the interpretation of and the adoption of amendments to the Statute of the Commission or its Rules.

Article 19
Obligations of Members

1 Members shall provide such information to the Commission and its subsidiary bodies in such a way as to enable the Commission to meet the objective of this Agreement and to enable its subsidiary bodies to fulfil their responsibilities.

2 Each Member shall:

- (a) implement this Agreement and conservation and management measures adopted by the Commission, and take all necessary measures to ensure their effectiveness;
- (b) cooperate in furthering the objective of this Agreement;
- (c) take all necessary measures to support efforts to prevent, deter and eliminate illegal, unreported and unregulated fishing within the Agreement Area; and
- (d) collect, verify and report scientific, technical and statistical data and information required pursuant to this Agreement in conformity with standards, rules and procedures established by the Commission.

3 Each Member shall report annually to the Commission indicating how it has implemented the decisions by the Commission, including providing such relevant legislative and administrative documents as may be required by the Commission.

4 Each Member shall, to the greatest extent possible, take measures and cooperate to ensure compliance with decisions by the Commission by its nationals and vessels owned, operated or controlled by its nationals.

Article 20
Duties of the flag State

1 Each Member shall take all necessary measures to ensure that vessels entitled to fly its flag:

- (a) comply with the provisions of this Agreement and conservation and management measures adopted by the Commission; and
- (b) do not conduct unauthorized fishing or fishing related activities within waters under national jurisdiction of any Member.

2 Each Member shall:

- (a) authorize the use of vessels entitled to fly its flag only where it is able to exercise effectively its responsibilities in respect of the vessels under this Agreement and in accordance with international law;
- (b) maintain a register of vessels entitled to fly its flag and authorized for fishing or fishing related activities, ensure that such information as may be specified by the Commission is entered into that register, and exchange the information in accordance with such procedures as may be specified by the Commission;

- (c) in accordance with procedures adopted by the Commission, investigate immediately and report fully on actions taken in response to any alleged violation by vessels entitled to fly its flag of provisions of this Agreement or any conservation and management measures adopted by the Commission; and
- (d) ensure that penalties applicable for such violations are of an appropriate severity to secure compliance, discourage further violations and deprive offenders of the benefits accruing from their illegal activities.

Article 21
Duties of the port State

Each Member shall take all measures and actions, to the extent possible, necessary to implement port State measures in accordance with international instruments and decisions by the Commission.

Article 22
Monitoring, compliance and enforcement

The Commission shall establish appropriate cooperative mechanisms for effective monitoring, control and surveillance of fishing activities and to ensure compliance with this Agreement and the adopted conservation and management measures including, *inter alia*:

- (a) a record of vessels authorised to fish in the Agreement Area;
- (b) requirements for the reporting of vessel movements and activities by a satellite vessel monitoring system or other means that shall be designed to ensure the integrity and security of near real time transmissions, and such other systems as may be agreed by the Commission from time to time;
- (c) inspection programmes both at sea and in port, including joint or reciprocal boarding and inspection schemes;
- (d) reporting obligations on violations detected, progress and outcomes of investigations, and enforcement actions taken;
- (e) lists of vessels having engaged in illegal, unreported and unregulated fishing, including actions to be taken against vessels on such lists;
- (f) a process, including through the Compliance Committee, to examine cases of non-compliance with any recommendation adopted by the Commission and, as appropriate, determine sanctions;
- (g) sanctions consistent with international law to be applied by the Commission in cases of non-compliance with recommendations of the Commission as determined pursuant to paragraph (f) of this Article, including non discriminatory market-related measures; and
- (h) guidelines for penalties and/or sanctions to be applied by the Commission and/or its Members.

Article 23
Observers

1 Any member or associate member of FAO that is not a Member may, upon its request, be invited as an observer at sessions of the Commission, and its subsidiary bodies. It may submit memoranda and participate without vote in discussions.

2 States which, while not Members nor members or associate members of FAO, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon request and subject to the concurrence of the Commission through its Chairperson, and to the provisions relating to the granting of observer status to nations adopted by the Conference of FAO, be invited to attend sessions of the Commission and its subsidiary bodies as observers.

3 The Commission may invite intergovernmental or, on request, non-governmental organizations to participate as observers having special competence in the field of activity of the Commission, including its subsidiary bodies, to attend such of its meetings as the Commission may specify.

4 Unless the Commission expressly determines otherwise, observers may attend the plenary sessions of the Commission and participate in the discussions at any subsidiary body sessions which they may be invited to attend upon request. They may submit memoranda but in no case will they be entitled to vote.

Article 24
Cooperation with other organizations and institutions

1 The Commission shall cooperate with other international organizations and institutions in matters of mutual interest.

2 The Commission shall take into account measures adopted by other regional fisheries management organizations or relevant intergovernmental organizations that have competence in relation to the Agreement Area.

3 The Commission shall seek to make suitable arrangements for consultation, cooperation and collaboration with other relevant organizations and institutions.

Article 25
Recognition of the special requirements of developing State Members

1 The Commission shall give full recognition to the special requirements of developing States Members to this Agreement in relation to conservation and management of fishery resources and to the development of fishing activities.

2 In giving effect to the duty to cooperate in the establishment of conservation and management measures and the development of aquaculture, the Commission shall take into account the special requirements of developing State Members, in particular:

- (a) the vulnerability of such developing States which are dependent on the exploitation of fishery resources, including for meeting the nutritional requirements of their populations or part thereof;
- (b) the need to avoid adverse impacts on, and ensure access to fisheries by subsistence, and artisanal fishers small-scale and fish workers; and
- (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto such developing States.

3 The Members shall cooperate either directly or through the Commission for the purposes set out in this Article, which may include provision of financial assistance, assistance to human resource development, technical assistance, transfer of technology, including joint venture arrangements, and advisory and consultative services. Such assistance shall, *inter alia*, be directed towards:

- (a) improved conservation and management of fishery resources through collection, submission, verification, storing and dissemination of data;
- (c) stock assessment and scientific research;
- (d) development of fishing activities; and
- (c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level and access to technology and equipment.

Article 26 ***Non-members***

1 Members shall exchange information with respect to vessels engaged in fishing or fishing related activities in the Agreement Area that are flying the flags of non-members to this Agreement.

2 Members shall, individually or collectively, take measures consistent with this Agreement and international law to deter the activities of such vessels which undermine the effectiveness of applicable conservation and management measures, and shall report to the Commission any action taken in response to fishing or fishing related activities in the Agreement Area by non-members.

3 Members shall, individually or collectively, draw the attention of any non-member to this Agreement to any activity which in the opinion of the Member or Members negatively affects the implementation of the objective of this Agreement.

4 Members shall, individually or collectively, request non-members to this Agreement whose vessels are engaged in fishing or fishing related activities in the Agreement Area to become parties to this Agreement or to cooperate fully in the implementation of conservation and management measures adopted by the Commission. Such cooperating non-members may enjoy benefits from participation in fishing or fishing related activities commensurate with their commitments to comply with conservation and management measures established under

this Agreement. Rules concerning the cooperating status of non-members shall be set out in the Rules of Procedure.

Article 27
Dispute settlement

1 Members shall cooperate in order to prevent disputes.

2 If any dispute arises between two or more Members concerning the interpretation of this Agreement, those Members shall consult among themselves with a view to resolving the dispute, or to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice. Where a dispute is of technical nature, any party to the dispute may refer the dispute to an ad hoc expert panel established in accordance with the Rules of Procedure adopted by the Commission.

3 Where a dispute is not resolved through the means set out in paragraph 2, such dispute shall, at the request of any party to the dispute, be referred to procedures for settlement of disputes provided in Part XV of the 1982 Convention or in Part VII of the 1995 Agreement.

4 Paragraph 3 shall not affect the status of any Member in relation to the 1982 Convention or the 1995 Agreement.

Article 28
Relation to other international instruments

1 Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of Members under the 1982 Convention or the 1995 Agreement.

2 This Agreement shall not alter the rights and obligations of Members that arise from other international instruments compatible with this Agreement and which do not affect the enjoyment by other Members of their rights or performance of their obligations under this Agreement.

Article 29
Official languages of the Commission

1 The official languages of the Commission shall be such official languages of the FAO as the Commission itself may decide. The delegations may use any one of these languages at sessions and for their reports and communications.

2 During the Commission sessions, interpretation in one or more of the official languages of the Commission shall be provided by the Secretariat when a request has been made by a Member in accordance with the Rules of Procedure.

3 English and French shall be the working languages, as appropriate, for technical meetings.

4 Publications of reports and communications shall be in the language in which they are submitted and, when required by the Commission, abstracts in translation may be published.

Article 30
Amendments

1 The Commission may amend this Agreement by a two-thirds majority of all the Members. Subject to paragraph 2 below, amendments shall come into force as from the date of their adoption by the Commission.

2 Amendments involving new obligations for Members shall come into force after acceptance by two-thirds of the Members and with respect to each Member only on acceptance of it by that Member. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the FAO who shall inform all the Members, as well as the Secretary-General of the United Nations, of the receipt of acceptance and the entry into force of such amendments. The rights and obligations of any Member that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

3 Amendments to this Agreement shall be reported to the Council of the FAO which shall have the power to disallow any amendment which it finds to be inconsistent with the objectives and purposes of the FAO or the provisions of the Constitution of the FAO. If the Council of the FAO considers it desirable, it may refer the amendment to the Conference of the FAO which shall have the same power.

Article 31
Acceptance

1 This Agreement shall be open to acceptance by members or associate members of the FAO.

2 The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission.

3 Participation in the activities of the Commission by Members which are not members or associate members of the FAO shall be contingent upon the assumption of such proportionate share in the expenses of the Secretariat as may be determined in the light of the relevant provisions of the Financial Regulations and Rules of the FAO.

4 Acceptance of this Agreement by any member or associate member of the FAO shall be effected by the deposit of an instrument of acceptance with the Director-General of the FAO and shall take effect on receipt of such instrument by the Director-General.

5 Acceptance of this Agreement by non-members of the FAO shall be effected by the deposit of an instrument of acceptance with the Director-General of the FAO membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.

6 The Director-General of the FAO shall inform all Members of the Commission, all members of the FAO and the Secretary-General of the United Nations of all acceptances that have become effective.

7 Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous approval by the Members. Members not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the FAO shall notify forthwith all Members of any reservations.

Article 32
Entry into force

This Agreement shall enter into force as from the date of receipt of the fifth instrument of acceptance.

Article 33
Territorial application

The Members shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article 34 below, the scope of the territorial application may be modified by a subsequent declaration.

Article 34
Withdrawal

1 Any Member may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General of the FAO who shall immediately inform all the Members and the members of the FAO of such withdrawal. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General of the FAO.

2 A Member may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member is responsible, with the exception of associate members.

3 Any Member that gives notice of withdrawal from the FAO shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an associate member.

Article 35
Termination

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Members drops below five, unless the remaining Members unanimously decide otherwise.

Article 36
Certification and registration

The text of this Agreement was originally formulated at Rome on the 24th day of September one thousand nine hundred and forty-nine in the French language and **was amended on...** Two copies in the English, French and Spanish languages of this Agreement and of any amendments to this Agreement shall be certified by the Chairperson of the Commission and by the Director-General of the FAO. One of these copies shall be deposited in the archives of the FAO. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each member of the FAO and to such non-member nations of the FAO that are or may become parties to this Agreement.
