

COMMISSION OF THE EUROPEAN COMMUNITIES

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94/ 0186(CNS)

Proposal for a

COUNCIL DECISION

**on accession of the EC to the Agreement to promote compliance
with international conservation and management measures
by fishing vessels on the high seas**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The consolidation in the new international law of the sea of the concept of exclusive economic zones or fishing zones extending up to 200 nautical miles offshore of coastal States has, in practice, led to a substantial movement of high-sea fishing fleets towards maritime areas covered by high seas arrangements. The United Nations Convention on the Law of the Sea (hereinafter referred to as the "1982 Convention") confirmed the traditional freedom to fish in these areas, while making this subject to the obligation to adopt conservation measures, if necessary, or to cooperate to that end (cf. Articles 117 and 118 of the Convention).

As a result, most countries with an interest in high-seas fisheries, and the Community, either independently with regard to their own vessels or through participation in bi- or multilateral agreements, adopted conservation measures to promote sustainable utilization of the biological resources of the high seas. More specifically, the Community acceded to several regional fisheries conventions and organizations established to ensure fisheries conservation and management in the appropriate international contexts.

However, the introduction of corresponding conservation measures generated a counter-trend in that a growing number of fishing vessels began to transfer to the registers of countries that are not contracting parties to the existing regional fisheries organizations and are not taking the necessary conservation measures or cooperating to that end.

These increasingly frequent transfers of fishing vessels to flags of convenience in order to evade conservation measures is taking on proportions that risk having a serious impact on the efforts made pursuant to the 1982 Convention.

2. The "Declaration of Cancún" adopted by the International Conference on Responsible Fishing held at Cancún in Mexico in May 1992 and the "Action 21" programme adopted by the United Nations Conference on the Environment and Development (UNCED) at Rio de Janeiro in June 1992 called on States to take measures compatible with international law to thwart attempts to evade fisheries conservation measures applicable to the high seas by simply changing flags.
3. On the basis of the "Declaration of Cancún", the FAO was given responsibility for drawing up a Code of Conduct for Responsible Fishing. In the course of the initial discussions on the content of the planned Code, it was recognized that it would have to incorporate mechanisms to effectively hinder the practice of "reflagging", as it is known. In this context, it was finally decided to initiate procedures for the rapid establishment of an international agreement to put a stop to this practice as the first part of the planned Code.

4. Starting with a meeting of experts organized by the FAO in February 1993, the discussions were continued and the texts which they produced featured three times on the agenda of official FAO sessions.

The main problem to be dealt with arose from the fact that, under the international law on treaties, international agreements may in no case entail obligations being imposed on non-signatory countries. It was therefore considered useful to draw up an international agreement that would enable States that are not parties to international conventions on the regulation of high seas fishing to impose on vessels flying their flag the obligation not to engage in fishing activities that might compromise the effectiveness of internationally agreed conservation measures.

During negotiations, there were a variety of approaches to the possible content of such an agreement. One sought to specify the responsibility of the flag State to do something about the activities of "non-contracting parties" that fail to cooperate on the conservation of high seas resources, while another preferred to give the port States a leading role rather than increase the responsibility of the flag States. Yet another, based on an excessively strict interpretation of Article 117 of the 1982 Convention, which imposes on States the obligation to "take such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas", at first advocated imposing, through the personal jurisdiction of States, specific obligations on their nationals, irrespective of the State with which the vessel is registered. Another approach envisaged reforming the conditions of registration and flagging of fishing vessels, in particular by making more specific the concept of the "genuine link" which, under Article 91 of the 1982 Convention, must exist between the flag State and the vessel, but which that Convention did not define.

The first draft agreement submitted to the meeting of the Fisheries Committee held on 15 to 19 March 1993 was therefore entitled "Draft international agreement on the flagging of vessels fishing on the high seas". On this occasion the approach centered on the personal jurisdiction of States was dropped and reservations were expressed regarding the inclusion of a "flag/genuine link" clause in the proposed agreement, since it was felt that such a clause could be seen as a major obstacle to rapid and universal acceptance of the agreement.

Subsequently the competent working group of the Council managed to produce an agreement between the Commission and the Member States on an alternative text of the agreement which was a common position on the subject and which reflected the abovementioned reservations, stressing, rather, the responsibility of the flag State and, in line with this, concentrating on arrangements for authorizing high seas fishing.

This alternative text was not without influence on the continuing negotiations. At the June

1993 meeting of the FAO Council, in line with the approach suggested by the Community, the "flag" clause was eliminated gradually as the debate moved towards a scheme based on the concept of authorization of high seas fishing, managed by the flag State, i.e. a traditional instrument of fisheries management, and on the transparency of fishing activities and greater cooperation between all parties concerned.

A consensus was achieved on a text based on this approach at informal consultations organized by the FAO at the United Nations Conference on straddling stocks and highly migratory species in July 1993 and, subsequently, at the final negotiations conducted at the FAO Council meeting in November 1993. The final text, entitled "Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas" (hereinafter referred to as "the Agreement") was formally approved by the 27th Conference of the FAO when it met on 24 November 1993.

5. This Agreement will be an integral part of the Code of Conduct for Responsible Fishing which will be prepared by the FAO in the course of 1994.
6. The Agreement specifies the responsibility of flag States with regard to the fishing vessels authorized to fly their flag and operating on the high seas. The contracting parties must take all necessary measures to ensure that these vessels do not engage in activities that could compromise international conservation and management measures. In addition, the Agreement provides for a system to be introduced for authorizing fishing on the high seas and the contracting parties must make all the necessary checks before issuing such an authorization to fishing vessels authorized to fly their flag, as well as throughout the period of validity of the authorization. Finally they must also provide for sanctions of sufficient severity effectively to guarantee compliance with the provisions of the Agreement by the fishing vessels. To step up international cooperation and the transparency of the fishing activities concerned, the Agreement establishes a system for the exchange of information between the contracting parties through the intermediary of the FAO.
7. On 5 March 1993 the Commission sent the Council a recommendation (SEC(93) 283 final) that it should authorize the Commission, under Article 228 of the Treaty, to conduct negotiations on the formulation of the Code of Conduct for Responsible Fishing (of which the Agreement is an integral part). Although the recommendation was discussed several times in the competent Council working group, no final decision was taken. In the meantime, negotiations on the Agreement have continued, in accordance with the rules relating to Community participation in the FAO and on the basis of the common position described above.

8. The main goal of the agreement is to ensure that international measures for the conservation and management of fishery resources in the high seas are effective. To achieve this, the Agreement specifies that the flag State is responsible with regard to fishing vessels flying its flag and operating on the high seas and, therefore, for regulating their fishing activity. In addition, the Agreement seeks to achieve increased international cooperation on conserving the fishery resources of the high seas and increased transparency through the exchange of information on high seas fisheries.

On this matter, the Community has exclusive legislative competence which case history has also consistently extended to the high seas (cf. judgements of 14 July 1976 in Joined Cases 3, 4 and 6/76 Kramer [1976] ECR 1279; of 25 July 1991 in Case C-258/89 Commission v Spain [1991] ECR I-3977; and more recently the judgement of 24 November 1993 in Case C-405/92 Mondiet (not yet published) in which the Court attributes the same legislative competence to the Community for the high seas as that recognized by international law for the flag State).

The Agreement therefore deals with subjects that fall entirely within the Community's competence on fishing matters, so that only the Community (and not the Member States individually) has the authority to accede to it.

9. Resolution 15/93 of the FAO Conference, which approved the final text in November 1993, calls on members of the FAO to accede to the Agreement as soon as possible. Since the Community has subscribed to the results of the Conference of Cancún as well as of the UNCED, and has actively supported the many initiatives taken, in particular through regional fisheries organizations of which it is a member, to deal with the activities of "non-contracting parties", its position and prestige would be compromised and weakened in various international bodies where very important fisheries-related negotiations are now underway (FAO - Code of Conduct, United Nations - Conference on straddling stocks and highly migratory species) if it did not accede to the Agreement very soon.
10. On the basis of the foregoing, the Commission proposes to the Council that it should adopt a decision on the accession of the European Community to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, and should lodge the accession instrument with the Director-General of the FAO with as little delay as possible.

**Proposal for a
COUNCIL DECISION of 1994
on accession of the EC to the Agreement to promote compliance
with international conservation and management measures
by fishing vessels on the high seas
(94/.../EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof, in conjunction with the first subparagraph of Article 228(3),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas international cooperation is essential to ensure the conservation and the rational, responsible and sustainable utilization of the biological resources of the high seas;

Whereas the Community has signed the United Nations Convention on the Law of the Sea, which obliges all members of the international community to cooperate in the conservation and management of the biological resources of the high seas;

Whereas, as regards maritime fishing, the Community has the authority to adopt fishery resource conservation and management measures and to conclude external agreements in this field with third countries or international organizations, as set out in the Declaration of Competence which the Community submitted at the time it joined the Food and Agriculture Organization of the United Nations;

Whereas the practice of requesting the allocation or change of flag by fishing vessels in order to circumvent international measures for the conservation and management of maritime biological resources should be discouraged;

Whereas each Member State must therefore meet its responsibilities to ensure that the fishing vessels authorized to fly its flag comply with international conservation and management measures by appropriate and effective means coordinated at international level;

Whereas to that end the Community took part in international negotiations which culminated in the approval by the Conference of the Food and Agriculture Organization of the United Nations at its twenty-seventh session in November 1993 of the Agreement to Promote Compliance with

⁽¹⁾ OJ No



International Conservation and Management Measures by Fishing Vessels on the High Seas;

Whereas that Agreement is a useful framework for strengthening international cooperation to ensure that the effectiveness of international conservation and management measures is not undermined;

Whereas that Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancún of May 1992;

Whereas Community fishermen fish on the high seas and it is therefore in the Community's interest to accede to that Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The European Community hereby accedes to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person authorized to lodge the instrument of accession with the Director-General of the Food and Agriculture Organization of the United Nations in accordance with Article X(2) of the Agreement.

Done at Brussels, 1994

**For the Council
The President**

**AGREEMENT TO PROMOTE COMPLIANCE
WITH INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES
BY FISHING VESSELS ON THE HIGH SEAS**

PREAMBLE

The Parties to this Agreement,

Recognizing that all States have the right for their nationals to engage in fishing on the high seas, subject to the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea,

Further recognizing that, under international law as reflected in the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas,

Acknowledging the right and interest of all States to develop their fishing sectors in accordance with their national policies, and the need to promote cooperation with developing countries to enhance their capabilities to fulfil their obligations under this Agreement,

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas,

Further recalling that the Declaration of Cancun, adopted by the International Conference on Responsible Fishing, also calls on States to take action in this respect,

Bearing in mind that under Agenda 21, States commit themselves to the conservation and sustainable use of marine living resources on the high seas,

Calling upon States which do not participate in global, regional or subregional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations or with parties to such organizations or arrangements with a view to achieving compliance with international conservation and management measures,

Conscious of the duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag, including fishing vessels and vessels engaged in the transshipment of fish,

Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfil their responsibilities with respect to fishing

vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures,

Realizing that the objective of this Agreement can be achieved through specifying flag States' responsibility in respect of fishing vessels entitled to fly their flags and operating on the high seas, including the authorization by the flag State of such operations, as well as through strengthened international cooperation and increased transparency through the exchange of information on high seas fishing,

Noting that this Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancun,

Desiring to conclude an international agreement within the framework of the Food and Agriculture Organization of the United Nations, hereinafter referred to as FAO, under Article XIV of the FAO Constitution,

Have agreed as follows:

Article I

DEFINITIONS

For the purposes of this Agreement:

- (a) "fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in such fishing operations;
- (b) "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea. Such measures may be adopted either by global, regional or subregional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements;
- (c) "length" means
 - (i) for any fishing vessel built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
 - (ii) for any fishing vessel built before 18 July 1982, registered length as entered on the national register or other record of vessels;

- (d) "record of fishing vessels" means a record of fishing vessels in which are recorded pertinent details of the fishing vessel. It may constitute a separate record for fishing vessels or form part of a general record of vessels;
- (e) "regional economic integration organization" means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (f) "vessels entitled to fly its flag" and "vessels entitled to fly the flag of a State", includes vessels entitled to fly the flag of a member State of a regional economic integration organization.

Article II

APPLICATION

1. Subject to the following paragraphs of this Article, this Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.
2. A Party may exempt fishing vessels of less than 24 metres in length entitled to fly its flag from the application of this Agreement unless the Party determines that such an exemption would undermine the object and purpose of this Agreement, provided that such exemptions:
 - (a) shall not be granted in respect of fishing vessels operating in fishing regions referred to in paragraph 3 below, other than fishing vessels that are entitled to fly the flag of a coastal State of that fishing region; and
 - (b) shall not apply to the obligations undertaken by a Party under paragraph 1 of Article III, or paragraph 7 of Article VI of this Agreement.
3. Without prejudice to the provisions of paragraph 2 above, in any fishing region where bordering coastal States have not yet declared exclusive economic zones, or equivalent zones of national jurisdiction over fisheries, such coastal States as are Parties to this Agreement may agree, either directly or through appropriate regional fisheries organizations, to establish a minimum length of fishing vessels below which this Agreement shall not apply in respect of fishing vessels flying the flag of any such coastal State and operating exclusively in such fishing region.

Article III

FLAG STATE RESPONSIBILITY

1. (a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that

undermines the effectiveness of international conservation and management measures.

- (b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled to fly its flag from the application of other provisions of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

3. No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.

4. Where a fishing vessel that has been authorized to be used for fishing on the high seas by a Party ceases to be entitled to fly the flag of that Party, the authorization to fish on the high seas shall be deemed to have been cancelled.

5. (a) No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless it is satisfied that

- (i) any period of suspension by another Party of an authorization for such fishing vessel to be used for fishing on the high seas has expired; and
- (ii) no authorization for such fishing vessel to be used for fishing on the high seas has been withdrawn by another Party within the last three years.

(b) The provisions of subparagraph (a) above shall also apply in respect of fishing vessels previously registered in the territory of a State which is not a Party to this Agreement, provided that sufficient information is available to the Party concerned on the circumstances in which the authorization to fish was suspended or withdrawn.

(c) The provisions of subparagraphs (a) and (b) shall not apply where the ownership of the fishing vessel has subsequently changed, and the new owner has provided sufficient evidence demonstrating that the previous owner or

operator has no further legal, beneficial or financial interest in, or control of, the fishing vessel.

- (d) Notwithstanding the provisions of subparagraphs (a) and (b) above, a Party may authorize a fishing vessel, to which those subparagraphs would otherwise apply, to be used for fishing on the high seas, where the Party concerned, after having taken into account all relevant facts, including the circumstances in which the fishing authorization has been withdrawn by the other Party or State, has determined that to grant an authorization to use the vessel for fishing on the high seas would not undermine the object and purpose of this Agreement.

6. Each Party shall ensure that all fishing vessels entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.

7. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide it with such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement, including in particular information pertaining to the area of its fishing operations and to its catches and landings.

8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.

Article IV

RECORDS OF FISHING VESSELS

Each Party shall, for the purposes of this Agreement, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas, and shall take such measures as may be necessary to ensure that all such fishing vessels are entered in that record.

Article V

INTERNATIONAL COOPERATION

1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfil its obligations under Article III.
2. When a fishing vessel is voluntarily in the port of a Party other than its flag State, that Party, where it has reasonable grounds for believing that the fishing vessel has been used for an activity that undermines the effectiveness of international conservation and management measures, shall promptly notify the flag State accordingly. Parties may make arrangements regarding the undertaking by port States of such investigatory measures as may be considered necessary to establish whether the fishing vessel has indeed been used contrary to the provisions of this Agreement.
3. The Parties shall, when and as appropriate, enter into cooperative agreements or arrangements of mutual assistance on a global, regional, subregional or bilateral basis so as to promote the achievement of the objectives of this Agreement.

Article VI

EXCHANGE OF INFORMATION

1. Each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the record required to be maintained under Article IV:
 - (a) name of fishing vessel, registration number, previous names (if known), and port of registry;
 - (b) previous flag (if any);
 - (c) International Radio Call Sign (if any);
 - (d) name and address of owner or owners;
 - (e) where and when built;
 - (f) type of vessel;
 - (g) length.

2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

- (a) name and address of operator (manager) or operators (managers) (if any);
- (b) type of fishing method or methods;
- (c) moulded depth;
- (d) beam;
- (e) gross register tonnage;
- (f) power of main engine or engines.

3. Each Party shall promptly notify to FAO any modifications to the information listed in paragraphs 1 and 2 of this Article.

4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information on request individually to any global, regional or subregional fisheries organization.

5. Each Party shall also promptly inform FAO of -

- (a) any additions to the record;
- (b) any deletions from the record by reason of -
 - (i) the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;
 - (ii) the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 8 of Article III;
 - (iii) the fact that the fishing vessel concerned is no longer entitled to fly its flag;
 - (iv) the scrapping, decommissioning or loss of the fishing vessel concerned; or
 - (v) any other reason.

6. Where information is given to FAO under paragraph 5 (b) above, the Party concerned shall specify which of the reasons listed in that paragraph is applicable.

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7. Each Party shall inform FAO of
- (a) any exemption it has granted under paragraph 2 of Article II, the number and type of fishing vessel involved and the geographical areas in which such fishing vessels operate; and
 - (b) any agreement reached under paragraph 3 of Article II.
8. (a) Each Party shall report promptly to FAO all relevant information regarding any activities of fishing vessels flying its flag that undermine the effectiveness of international conservation and management measures, including the identity of the fishing vessel or vessels involved and measures imposed by the Party in respect of such activities. Reports on measures imposed by a Party may be subject to such limitations as may be required by national legislation with respect to confidentiality, including, in particular, confidentiality regarding measures that are not yet final.
- (b) Each Party, where it has reasonable grounds to believe that a fishing vessel not entitled to fly its flag has engaged in any activity that undermines the effectiveness of international conservation and management measures, shall draw this to the attention of the flag State concerned and may, as appropriate, draw it to the attention of FAO. It shall provide the flag State with full supporting evidence and may provide FAO with a summary of such evidence. FAO shall not circulate such information until such time as the flag State has had an opportunity to comment on the allegation and evidence submitted, or to object as the case may be.
9. Each Party shall inform FAO of any cases where the Party, pursuant to paragraph 5 (d) of Article III, has granted an authorization notwithstanding the provisions of paragraph 5 (a) or 5 (b) of Article III. The information shall include pertinent data permitting the identification of the fishing vessel and the owner or operator and, as appropriate, any other information relevant to the Party's decision.
10. FAO shall circulate promptly the information provided under paragraphs 5, 6, 7, 8 and 9 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information promptly on request individually to any global, regional or subregional fisheries organization.
11. The Parties shall exchange information relating to the implementation of this Agreement, including through FAO and other appropriate global, regional and subregional fisheries organizations.

Article VII

COOPERATION WITH DEVELOPING COUNTRIES

The Parties shall cooperate, at a global, regional, subregional or bilateral level, and, as appropriate, with the support of FAO and other international or regional organizations, to provide assistance, including technical assistance, to Parties that are developing countries in order to assist them in fulfilling their obligations under this Agreement.

Article VIII

NON-PARTIES

1. The Parties shall encourage any State not party to this Agreement to accept this Agreement and shall encourage any non-Party to adopt laws and regulations consistent with the provisions of this Agreement.
2. The Parties shall cooperate in a manner consistent with this Agreement and with international law to the end that fishing vessels entitled to fly the flags of non-Parties do not engage in activities that undermine the effectiveness of international conservation and management measures.
3. The Parties shall exchange information amongst themselves, either directly or through FAO, with respect to activities of fishing vessels flying the flags of non-Parties that undermine the effectiveness of international conservation and management measures.

Article IX

SETTLEMENT OF DISPUTES

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.
2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea upon entry into force of the 1982 United Nations Convention on the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with

a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

Article X

ACCEPTANCE

1. This Agreement shall be open to acceptance by any Member or Associate Member of FAO, and to any non-member State that is a member of the United Nations, or of any of the specialized agencies of the United Nations or of the International Atomic Energy Agency.
2. Acceptance of this Agreement shall be effected by the deposit of an instrument of acceptance with the Director-General of FAO, hereinafter referred to as the Director-General.
3. The Director-General shall inform all Parties, all Members and Associate Members of FAO and the Secretary-General of the United Nations of all instruments of acceptance received.
4. When a regional economic integration organization becomes a Party to this Agreement, such regional economic integration organization shall, in accordance with the provisions of Article II.7 of the FAO Constitution, as appropriate, notify such modifications or clarifications to its declaration of competence submitted under Article II.5 of the FAO Constitution as may be necessary in light of its acceptance of this Agreement. Any Party to this Agreement may, at any time, request a regional economic integration organization that is a Party to this Agreement to provide information as to which, as between the regional economic integration organization and its Member States, is responsible for the implementation of any particular matter covered by this Agreement. The regional economic integration organization shall provide this information within a reasonable time.

Article XI

ENTRY INTO FORCE

1. This Agreement shall enter into force as from the date of receipt by the Director-General of the twenty-fifth instrument of acceptance.
2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XII

RESERVATIONS

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

Article XIII

AMENDMENTS

1. Any proposal by a Party for the amendment of this Agreement shall be communicated to the Director-General.
2. Any proposed amendment of this Agreement received by the Director-General from a Party shall be presented to a regular or special session of the Conference for approval and, if the amendment involves important technical changes or imposes additional obligations on the Parties, it shall be considered by an advisory committee of specialists convened by FAO prior to the Conference.
3. Notice of any proposed amendment of this Agreement shall be transmitted to the Parties by the Director-General not later than the time when the agenda of the session of the Conference at which the matter is to be considered is dispatched.
4. Any such proposed amendment of this Agreement shall require the approval of the Conference and shall come into force as from the thirtieth day after acceptance by two-thirds of the Parties. Amendments involving new obligations for Parties, however, shall come into force in respect of each Party only on acceptance by it and as from the thirtieth day after such acceptance. Any amendment shall be deemed to involve new obligations for Parties unless the Conference, in approving the amendment, decides otherwise by consensus.
5. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General, who shall inform all Parties of the receipt of acceptance and the entry into force of amendments.
6. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XIV

WITHDRAWAL

Any Party may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Parties and the Members and Associate Members of FAO of such withdrawal. Withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

Article XV

DUTIES OF THE DEPOSITARY

The Director-General shall be the Depositary of this Agreement. The Depositary shall:

- (a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-member States as may become party to this Agreement;
- (b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) inform each Member and Associate Member of FAO and any non-member States as may become Party to this Agreement of:
 - (i) instruments of acceptance deposited in accordance with Article X;
 - (ii) the date of entry into force of this Agreement in accordance with Article XI;
 - (iii) proposals for and the entry into force of amendments to this Agreement in accordance with Article XIII;
 - (iv) withdrawals from this Agreement pursuant to Article XIV.

Article XVI

AUTHENTIC TEXTS

The Arabic, Chinese, English, French, and Spanish texts of this Agreement are equally authentic.

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DOCUMENTS

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