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I

(Acts whose publication is obligatory)

**DIRECTIVE 2006/46/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 June 2006**

amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) On 21 May 2003, the Commission adopted an Action Plan announcing measures to modernise company law and enhance corporate governance in the Community. As a short-term priority, the Community was to confirm the collective responsibility of board members, increase transparency in transactions with related parties and off-balance-sheet arrangements and improve disclosure about corporate governance practices applied in a company.
- (2) Pursuant to that Action Plan, members of the administrative, management and supervisory bodies of a company were, as a minimum requirement, to be collectively responsible towards the company for drawing up and publishing annual accounts and annual reports. The same approach was also to apply to members of the administrative, management and supervisory bodies of undertakings drawing up consolidated accounts. Those bodies act

within the competences assigned to them by national law. This should not prevent Member States from going further and providing for direct responsibility towards shareholders or even other stakeholders. On the other hand, Member States were to refrain from opting for a system of responsibility limited to individual board members. However, this should not preclude the ability of courts or other enforcement bodies in the Member States to impose penalties on an individual board member.

- (3) Liability for drawing up and publishing annual accounts and consolidated accounts as well as annual reports and consolidated annual reports is based on national law. Appropriate liability rules, as laid down by each Member State under its national law or regulations, should be applicable to members of the administrative, management and supervisory bodies. Member States should remain free to determine the extent of the liability.
- (4) In order to promote credible financial reporting processes across the European Union, members of the company body that is responsible for the preparation of the company's financial reports should have the duty to ensure that the financial information included in a company's annual accounts and annual reports gives a true and fair view.
- (5) On 27 September 2004 the Commission adopted a Communication on preventing and combating financial and corporate malpractice outlining 'inter alia' the Commission policy initiatives regarding internal control in companies and responsibility of board members.

⁽¹⁾ OJ C 294, 25.11.2005, p. 4.

⁽²⁾ Opinion of the European Parliament of 15 December 2005 (not yet published in the Official Journal) and Council Decision of 22 May 2006.

- (6) At present Fourth Council Directive 78/660/EEC ⁽¹⁾ and Seventh Council Directive 83/349/EEC ⁽²⁾ only provide for disclosure of transactions between a company and the company's affiliated undertakings. With the objective of bringing companies whose securities are not admitted to trading on a regulated market closer to companies applying the international accounting standards for their consolidated accounts, disclosure should be extended to cover other types of related parties, such as key management members and spouses of board members, but only where such transactions are material and not carried out at arm's length. Disclosure of material transactions with related parties that are not carried out under normal market conditions can assist users of annual accounts to assess the financial position of the company as well as, when the company belongs to a group, the financial situation of the group as a whole. Intra-group related party transactions should be eliminated in the preparation of consolidated financial statements.
- (7) Definitions of a related party as set out in the international accounting standards adopted by the Commission in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽³⁾ should apply to Directives 78/660/EEC and 83/349/EEC.
- (8) Off-balance-sheet arrangements may expose a company to risks and benefits which are material for an assessment of the financial position of the company and, when the company belongs to a group, the financial position of the group as a whole.
- (9) Such off-balance-sheet arrangements could be any transactions or agreements which companies may have with entities, even unincorporated ones, that are not included in the balance sheet. Such off-balance-sheet arrangements may be associated with the creation or use of one or more Special Purpose Entities (SPEs) and offshore activities designed to address, *inter alia*, economic, legal, tax or accounting objectives. Examples of such off-balance-sheet arrangements include risk and benefit-sharing arrangements or obligations arising from a contract such as debt factoring, combined sale and repurchase agreements, consignment stock arrangements, take or pay arrangements, securitisation arranged through separate companies and unincorporated entities, pledged assets, operating leasing arrangements, outsourcing and the like. Appropriate disclosure of the material risks and benefits of such arrangements that are not included in the balance sheet should be set out in the notes to the accounts or the consolidated accounts.
- (10) Companies whose securities are admitted to trading on a regulated market and which have their registered office in the Community should be obliged to disclose an annual corporate governance statement as a specific and clearly identifiable section of the annual report. That statement should at least provide shareholders with easily accessible key information about the corporate governance practices actually applied, including a description of the main features of any existing risk management systems and internal controls in relation to the financial reporting process. The corporate governance statement should make clear whether the company applies any provisions on corporate governance other than those provided for in national law, regardless of whether those provisions are directly laid down in a corporate governance code to which the company is subject or in any corporate governance code which the company may have decided to apply. Furthermore, where relevant, companies may also provide an analysis of environmental and social aspects necessary for an understanding of the company's development, performance and position. There is no need to impose the requirement of a separate corporate governance statement on undertakings drawing up a consolidated annual report. However, the information concerning the group's risk management system and internal control system should be presented.
- (11) The various measures adopted under this Directive should not necessarily apply to the same types of companies or undertakings. Member States should be able to exempt small companies, as described in Article 11 of Directive 78/660/EEC, from the requirements concerning related parties and off-balance-sheet arrangements under this Directive. Companies which already disclose information about transactions with related parties in their accounts pursuant to international accounting standards as adopted in the European Union should not be required to disclose further information under this Directive, as the application of the international accounting standards already results in a true and fair view of such a company. The

⁽¹⁾ OJ L 222, 14.8.1978, p. 11. Directive as last amended by Directive 2006/43/EC of the European Parliament and of the Council (OJ L 157, 9.6.2006, p. 87).

⁽²⁾ OJ L 193, 18.7.1983, p. 1. Directive as last amended by Directive 2006/43/EC.

⁽³⁾ OJ L 243, 11.9.2002, p. 1.

provisions of this Directive concerning the corporate governance statement should apply to all companies, including banks, insurance and reinsurance undertakings and companies which have issued securities other than shares admitted to trading on a regulated market insofar as they are not exempted by Member States. The provisions of this Directive concerning duties and liabilities of board members as well as penalties should apply to all companies to which Council Directives 78/660/EEC, 86/635/EEC ⁽¹⁾ and 91/674/EEC ⁽²⁾ apply and to all undertakings which draw up consolidated accounts in accordance with Directive 83/349/EEC.

- (12) At present Directive 78/660/EEC makes provision for examination every five years of, *inter alia*, the maximum thresholds for balance sheet and net turnover which Member States may apply in determining which companies may be exempted from certain disclosure requirements. In addition to those five-yearly examinations, an additional one-off increase in those balance sheet and net turnover thresholds may also be appropriate. There is no obligation on Member States to make use of those increased thresholds.
- (13) Since the objectives of this Directive, namely facilitating cross-border investments and improving EU-wide comparability and public confidence in financial statements and reports through enhanced and consistent specific disclosures, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and the effects of this Directive, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (14) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of the Fundamental Rights of the European Union.
- (15) In accordance with paragraph 34 of the Interinstitutional agreement on better law-making ⁽³⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (16) Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 78/660/EEC

Directive 78/660/EEC is hereby amended as follows:

1. in Article 11, the first paragraph shall be amended as follows:
 - (a) in the first indent the words 'balance sheet total: EUR 3 650 000' shall be replaced by the words 'balance sheet total: EUR 4 400 000';
 - (b) in the second indent the words 'net turnover: EUR 7 300 000' shall be replaced by the words 'net turnover: EUR 8 800 000';
2. in Article 11, third paragraph, the words 'the Directive setting those amounts in consequence of the review provided for in Article 53(2)' shall be replaced by 'any Directive setting those amounts';
3. in Article 27, the first paragraph shall be amended as follows:
 - (a) in the first indent the words 'balance sheet total: EUR 14 600 000' shall be replaced by the words 'balance sheet total: EUR 17 500 000';
 - (b) in the second indent the words 'net turnover: EUR 29 200 000' shall be replaced by the words 'net turnover: EUR 35 000 000';
4. in Article 27, third paragraph, the words 'the Directive setting those amounts in consequence of the review provided for in Article 53(2)' shall be replaced by 'any Directive setting those amounts';
5. in Article 42a, the following paragraph shall be added:

'(5a) By way of derogation from the provisions of paragraphs 3 and 4, Member States may, in accordance with international accounting standards as adopted by Commission Regulation (EC) No 1725/2003 of 29 September 2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council ^(*), as amended until 5 September 2006, permit or require valuation of financial instruments, together with the associated disclosure requirements

⁽¹⁾ OJ L 372, 31.12.1986, p. 1. Directive as last amended by Directive 2003/51/EC of the European Parliament and of the Council (OJ L 178, 17.7.2003, p. 16).

⁽²⁾ OJ L 374, 31.12.1991, p. 7. Directive as amended by Directive 2003/51/EC.

⁽³⁾ OJ C 321, 31.12.2003, p. 1.

which are provided for in international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (**).

(*) OJ L 261, 13.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 108/2006 (OJ L 24, 27.1.2006, p. 1).

(**) OJ L 243, 11.9.2002, p. 1.

6. in Article 43(1), the following points shall be inserted:

(7a) the nature and business purpose of the company's arrangements that are not included in the balance sheet and the financial impact on the company of those arrangements, provided that the risks or benefits arising from such arrangements are material and in so far as the disclosure of such risks or benefits is necessary for assessing the financial position of the company.

Member States may permit the companies referred to in Article 27 to limit the information required to be disclosed by this point to the nature and business purpose of such arrangements;

(7b) transactions which have been entered into with related parties by the company, including the amount of such transactions, the nature of the related party relationship and other information about the transactions necessary for an understanding of the financial position of the company, if such transactions are material and have not been concluded under normal market conditions. Information about individual transactions may be aggregated according to their nature except where separate information is necessary for an understanding of the effects of related party transactions on the financial position of the company.

Member States may permit the companies referred to in Article 27 to omit the disclosures prescribed in this point unless those companies are of a type referred to in Article 1(1) of Directive 77/91/EEC, in which case Member States may limit disclosure to, as a minimum, transactions entered into directly or indirectly between:

(i) the company and its major shareholders,

and

(ii) the company and the members of the administrative, management and supervisory bodies.

Member States may exempt transactions entered into between two or more members of a group provided that subsidiaries which are party to the transaction are wholly owned by such a member.

“Related party” has the same meaning as in international accounting standards adopted in accordance with Regulation (EC) No 1606/2002.’

7. the following Article shall be inserted:

‘Article 46a

1. A company whose securities are admitted to trading on a regulated market within the meaning of Article 4(1), point (14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (*) shall include a corporate governance statement in its annual report. That statement shall be included as a specific section of the annual report and shall contain at least the following information:

(a) a reference to:

(i) the corporate governance code to which the company is subject,

and/or

(ii) the corporate governance code which the company may have voluntarily decided to apply,

and/or

(iii) all relevant information about the corporate governance practices applied beyond the requirements under national law.

Where points (i) and (ii) apply, the company shall also indicate where the relevant texts are publicly available; where point (iii) applies, the company shall make its corporate governance practices publicly available;

(b) to the extent to which a company, in accordance with national law, departs from a corporate governance code referred to under points (a)(i) or (ii), an explanation by the company as to which parts of the corporate governance code it departs from and the reasons for doing so. Where the company has decided not to apply any provisions of a corporate governance code referred to under points (a)(i) or (ii), it shall explain its reasons for doing so;

(c) a description of the main features of the company's internal control and risk management systems in relation to the financial reporting process;

- (d) the information required by Article 10(1), points (c), (d), (f), (h) and (i) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on take-over bids (**), where the company is subject to that Directive;
- (e) unless the information is already fully provided for in national laws or regulations, the operation of the shareholder meeting and its key powers, and a description of shareholders' rights and how they can be exercised;
- (f) the composition and operation of the administrative, management and supervisory bodies and their committees.

2. Member States may permit the information required by this Article to be set out in a separate report published together with the annual report in the manner set out in Article 47 or by means of a reference in the annual report where such document is publicly available on the company's website. In the event of a separate report, the corporate governance statement may contain a reference to the annual report where the information required in paragraph 1, point (d) is made available. Article 51(1), second subparagraph shall apply to the provisions of paragraph 1, points (c) and (d) of this Article. For the remaining information, the statutory auditor shall check that the corporate governance statement has been produced.

3. Member States may exempt companies which have only issued securities other than shares admitted to trading on a regulated market, within the meaning of Article 4(1), point (14) of Directive 2004/39/EC, from the application of the provisions of paragraph 1, points (a), (b), (e) and (f), unless such companies have issued shares which are traded in a multilateral trading facility, within the meaning of Article 4(1), point (15) of Directive 2004/39/EC.

(*) OJ L 145, 30.4.2004, p. 1.

(**) OJ L 142, 30.4.2004, p. 12.

8. the following Section shall be inserted:

'SECTION 10A

Duty and liability for drawing up and publishing the annual accounts and the annual report

Article 50b

Member States shall ensure that the members of the administrative, management and supervisory bodies of the company have collectively the duty to ensure that the annual accounts, the annual report and, when provided separately, the corporate governance statement to be provided pursuant to Article 46a are drawn up and published in accordance

with the requirements of this Directive and, where applicable, in accordance with the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002. Such bodies shall act within the competences assigned to them by national law.

Article 50c

Member States shall ensure that their laws, regulations and administrative provisions on liability apply to the members of the administrative, management and supervisory bodies referred to in Article 50b, at least towards the company, for breach of the duty referred to in Article 50b.'

9. Article 53a shall be replaced by the following:

'Article 53a

Member States shall not make available the exemptions set out in Articles 11, 27, 43(1), points (7a) and (7b), 46, 47 and 51 in the case of companies whose securities are admitted to trading on a regulated market within the meaning of Article 4(1), point (14) of Directive 2004/39/EC.'

10. the following Article shall be inserted:

'Article 60a

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.'

11. Article 61a shall be replaced by the following:

'Article 61a

Not later than 1 July 2007, the Commission shall review the provisions in Articles 42a to 42f, Article 43(1)(10) and (14), Article 44(1), Article 46(2)(f) and Article 59(2)(a) and (b) in the light of the experience acquired in applying provisions on fair value accounting, with particular regard to IAS 39 as endorsed in accordance with Regulation (EC) No 1606/2002, and taking account of international developments in the field of accounting and, if appropriate, submit a proposal to the European Parliament and the Council with a view to amending the abovementioned Articles.'

Article 2

Amendments to Directive 83/349/EEC

Directive 83/349/EEC is hereby amended as follows:

1. In Article 34, the following points shall be inserted:

(7a) The nature and business purpose of any arrangements that are not included in the consolidated balance sheet, and the financial impact of those arrangements, provided that the risks or benefits arising from such arrangements are material and in so far as the disclosure of such risks or benefits is necessary for assessing the financial position of the undertakings included in the consolidation taken as a whole.

(7b) The transactions, save for intra-group transactions, entered into by the parent undertaking, or by other undertakings included in the consolidation, with related parties, including the amounts of such transactions, the nature of the related party relationship as well as other information about the transactions necessary for an understanding of the financial position of the undertakings included in the consolidation taken as a whole, if such transactions are material and have not been concluded under normal market conditions. Information about individual transactions may be aggregated according to their nature except where separate information is necessary for an understanding of the effects of the related party transactions on the financial position of the undertakings included in the consolidation taken as a whole.'

2. In Article 36(2), the following point shall be added:

(f) a description of the main features of the group's internal control and risk management systems in relation to the process for preparing consolidated accounts, where an undertaking has its securities admitted to trading on a regulated market within the meaning of Article 4(1), point (14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (*). In the event that the consolidated annual report and the annual report are presented as a single report, this information must be included in the section of the report containing the corporate governance statement as provided for by Article 46a of Directive 78/660/EEC.

If a Member State permits the information required by paragraph 1 of Article 46a of Directive 78/660/EEC to be set out in a separate report published together with the annual report in the manner prescribed by

Article 47 of that Directive, the information provided under the first subparagraph shall also form part of that separate report. Article 37(1), second subparagraph of this Directive shall apply.

(*) OJ L 145, 30.4.2004, p. 1.'

3. The following Section shall be inserted:

'SECTION 3A

Duty and liability for drawing up and publishing the consolidated accounts and the consolidated annual report

Article 36a

Member States shall ensure that the members of the administrative, management and supervisory bodies of undertakings drawing up the consolidated accounts and the consolidated annual report have collectively the duty to ensure that the consolidated accounts, the consolidated annual report and, when provided separately, the corporate governance statement to be provided pursuant to Article 46a of Directive 78/660/EEC are drawn up and published in accordance with the requirements of this Directive and, where applicable, in accordance with the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (*). Such bodies shall act within the competences assigned to them by national law.

Article 36b

Member States shall ensure that their laws, regulations and administrative provisions on liability apply to the members of the administrative, management and supervisory bodies referred to in Article 36a, at least towards the undertaking drawing up the consolidated accounts, for breach of the duty referred to in Article 36a.

(*) OJ L 243, 11.9.2002, p. 1.'

4. In Article 41, the following paragraph shall be inserted:

'1a. "Related party" has the same meaning as in international accounting standards adopted in accordance with Regulation (EC) No 1606/2002.'

5. the following Article shall be inserted:

Article 48

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.'

*Article 3***Amendment to Directive 86/635/EEC**

The first sentence of Article 1(1) of Directive 86/635/EEC shall be replaced by the following:

'Articles 2, 3, 4(1), (3) to (6), Articles 6, 7, 13, 14, 15(3) and (4), Articles 16 to 21, 29 to 35, 37 to 41, 42 first sentence, 42a to 42f, 45(1), 46(1) and (2), 46a, Articles 48 to 50, 50a, 50b, 50c, 51(1) and 51a, 56 to 59, 60a, 61 and 61a of Directive 78/660/EEC shall apply to the institutions mentioned in Article 2 of this Directive, except where this Directive provides otherwise.'

*Article 4***Amendment to Directive 91/674/EEC**

The first sentence of Article 1(1) of Directive 91/674/EEC shall be replaced by the following:

'Articles 2, 3, 4(1), (3) to (6), Articles 6, 7, 13, 14, 15(3) and (4), Articles 16 to 21, 29 to 35, 37 to 41, 42, 42a to 42f, 43 (1), points 1 to 7b and 9 to 14, 45(1), 46(1) and (2), 46a, 48 to 50, 50a, 50b, 50c, 51(1), 51a, 56 to 59, 60a, 61 and 61a of Directive 78/660/EEC shall apply to the undertakings mentioned in Article 2 of this Directive, except where this Directive provides otherwise.'

*Article 5***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 September 2008 at the latest.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 6***Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 7***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 14 June 2006.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
H. WINKLER

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 April 2004

on the signing and provisional application of a Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

(2006/535/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with Article 300(2) first subparagraph, first sentence, thereof,

Having regard to the 2003 Treaty of Accession, and in particular Article 2(3) thereof,

Having regard to the 2003 Act of Accession, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 8 December 2003, the Council authorised the Commission, on behalf of the Community and its Member States, to negotiate with the Republic of Moldova a Protocol to the Partnership and Cooperation Agreement to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, and to provide for certain technical adjustments linked to the institutional and legal developments within the European Union.

- (2) Subject to its possible conclusion at a later date, the Protocol has been negotiated between the parties and should now be signed on behalf of the European Community and its Member States.

- (3) The Protocol should be applied on a provisional basis as from the date of accession, pending completion of the relevant procedures for its formal conclusion,

HAS DECIDED AS FOLLOWS:

Article 1

The President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community and its Member States, the Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Cyprus, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, subject to possible conclusion at a later stage.

The text of the Protocol is attached to this Decision ⁽¹⁾.

⁽¹⁾ See page 10 of this Official Journal.

Article 2

Done at Luxembourg, 29 April 2004.

Pending its entry into force, the Protocol shall be applied on a provisional basis from the date of accession.

For the Council
The President
M. McDOWELL

PROTOCOL

to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as the 'Member States', represented by the Council of the European Union, and

THE EUROPEAN COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Communities', represented by the Council of the European Union and the European Commission,

of the one part, and

THE REPUBLIC OF MOLDOVA

of the other part,

HAVING REGARD TO the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union on 1 May 2004,

HAVE AGREED AS FOLLOWS:

Article 1

The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall be Parties to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, signed in Brussels on 28 November 1994 (hereinafter the Agreement) and shall respectively adopt and take note, in the same manner as the other Member States, of the texts of the Agreement, the Joint Declarations, Exchanges of Letters, the Declaration by the Republic of Moldova annexed to the Final Act signed on the same date and the Protocol to the Agreement of 15 May 1997 that entered into force on 12 October 2000.

Article 2

To take account of recent institutional developments within the European Union, the Parties agree that, following expiry of the Treaty establishing the European Coal and Steel Community, existing provisions in the Agreement referring to the European Coal and Steel Community shall be deemed to refer to the European Community, which has taken over all rights and obligations contracted by the European Coal and Steel Community.

Article 3

This Protocol shall form an integral part of the Agreement.

Article 4

1. This Protocol shall be approved by the Communities, by the Council of the European Union on behalf of the Member States and by the Republic of Moldova in accordance with their own procedures.

2. The Parties shall notify each other of the accomplishment of the corresponding procedures referred to in the preceding paragraph. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 5

1. This Protocol shall enter into force on the same day as the 2003 Treaty of Accession, provided that all the instruments of approval of this Protocol have been deposited before that date.

2. Where not all instruments of approval of this Protocol have been deposited before that date, this Protocol shall enter into force on the first day of the first month following the date of deposit of the last instrument of approval.

3. Where not all instruments of approval of this Protocol have been deposited before 1 May 2004, this Protocol shall apply provisionally with effect from 1 May 2004.

Article 6

The texts of the Agreement, the Final Act and all documents annexed to it, as well as the Protocol to the Partnership and Cooperation Agreement of 15 May 1997, are drawn up in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovene languages.

These texts are annexed⁽¹⁾ to this Protocol and are equally authentic with the texts in the other languages in which the Agreement, the Final Act and the documents annexed to it, as well as the Protocol to the Partnership and Cooperation Agreement of 15 May 1997, are drawn up.

Article 7

This Protocol is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish and Moldovan languages, each of these texts being equally authentic.

⁽¹⁾ The Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian versions of the Agreement shall be published in the special edition of the Official Journal at a later date.

Hecho en Bruselas, el treinta de abril de dos mil cuatro.

V Bruselu dne třicátého dubna dva tisíce čtyři.

Udfærdiget i Bruxelles den tredivte april to tusind og fire.

Geschehen zu Brüssel am dreißigsten April zweitausendundvier.

Kahe tuhanda neljanda aasta kolmekümnendal aprillil Brüsselis.

Έγινε στις Βρυξέλλες, στις τριάντα Απριλίου δύο χιλιάδες τέσσερα.

Done at Brussels on the thirtieth day of April in the year two thousand and four.

Fait à Bruxelles, le trente avril deux mille quatre.

Fatto a Bruxelles, addì trenta aprile duemilaquattro.

Briselē, divi tūkstoši ceturtdā gada trīsdesmitajā aprīlī.

Priimta du tūkstančiai ketvirtų metų balandžio trisdešimtą dieną Briuselyje.

Kelt Brüsszelben, a kétézer-negyedik év április havának tizenharmadik napján.

Magħmul fi Brussel fit-tletin jum ta' April tas-sena elfejn u erbgha.

Gedaan te Brussel, de dertigste april tweeduizendvier.

Sporządzono w Brukseli, dnia trzynastego kwietnia roku dwa tysiące czwartego.

Feito em Bruxelas, em trinta de Abril de dois mil e quatro.

V Bruseli tridsiateho apríla dvetisícštyri.

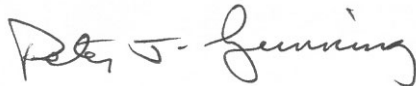
V Bruslju, dne tridesetega aprila leta dva tisoč štiri.

Tehty Brysselissä kolmantenakymmenentenä päivänä huhtikuuta vuonna kaksituhattaneljä.


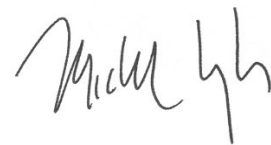
Som skedde i Bryssel den trettionde april tjugohundrafyra.

Întocmit la Bruxelles în a treizecea zi a lunii aprilie în anul doua mii patru.

Por los Estados miembros
 Za členské státy
 For medlemsstaterne
 Für die Mitgliedstaaten
 Liikmesriikide nimel
 Για τα κράτη μέλη
 For the Member States
 Pour les États membres
 Per gli Stati membri
 Dalībvalstu vārdā
 Valstybių narių vardu
 A tagállamok részéről
 Għall-Istati Membri
 Voor de lidstaten
 W imieniu Państw Członkowskich
 Pelos Estados-Membros
 Za členské štáty
 Za države članice
 Jäsenvaltioiden puolesta
 På medlemsstaternas vägnar
 Pentru Statele Membre



Por las Comunidades Europeas
 Za Evropská společenství
 For De Europæiske Fællesskaber
 Für die Europäischen Gemeinschaften
 Euroopa ühenduste nimel
 Για τις Ευρωπαϊκές Κοινότητες
 For the European Communities
 Pour les Communautés européennes
 Per le Comunità europee
 Eiropas Kopienų vārdā
 Europos Bendrijų vardu
 Az Európai Közösségek részéről
 Għall-Komunitajiet Ewropej
 Voor de Europese Gemeenschappen
 W imieniu Wspólnot Europejskich
 Pelas Comunidades Europeias
 Za Európske spoločenstvá
 Za Evropske skupnosti
 Euroopan yhteisöjen puolesta
 På Europeiska gemenskapernas vägnar
 Pentru Comunitatile Europene

Por la República de Moldova
 Za Moldavskou republiku
 For Republikken Moldova
 Für die Republik Moldau
 Moldova Vabariigi nimel
 Για τη Δημοκρατία της Μολδαβίας
 For the Republic of Moldova
 Pour la République de Moldova
 Per la Repubblica di Moldova
 Moldovas Republikas vārdā
 Moldovos Respublikos vardu
 Moldova részéről
 Għar-Repubblika tal-Moldavja
 Voor de Republiek Moldavië
 W imieniu Republiki Mołdowy
 Pela República da Moldávia
 Za Moldavskú republiku
 Za Republika Moldavijo
 Moldovan tasavallan puolesta
 På Republiken Moldaviens vägnar
 Pentru Republica Moldova



COUNCIL AND COMMISSION DECISION

of 21 February 2005

on the conclusion of the Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

(2006/536/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with the second sentence of Article 300(2) and the first subparagraph of Article 300(3), thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the 2003 Treaty of Accession, and in particular Article 2(3) thereof,

Having regard to the 2003 Act of Accession, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas:

- (1) The Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union was signed on behalf of the European Communities and their Member States on 30 April 2004.

- (2) Pending its entry into force, the Protocol has been applied on a provisional basis as from 1 May 2004.

- (3) The Protocol should be approved,

HAVE DECIDED AS FOLLOWS:

Article 1

The Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

The text of the Protocol is attached to this Decision ⁽²⁾.

Article 2

The President of the Council shall, on behalf of the Community and its Member States, give the notification provided for in Article 4 of the Protocol. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 21 February 2005.

For the Council
The President
J. ASSELBORN

For the Commission
The President
J. M. BARROSO

⁽¹⁾ OJ C 174 E, 14.7.2005, p. 43.

⁽²⁾ See page 10 of this Official Journal.

COUNCIL DECISION

of 29 April 2004

on the signing and provisional application of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA) on accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA

(2006/537/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with Article 300(2) first subparagraph, first sentence thereof,

Having regard to the 2003 Treaty of Accession, and in particular Article 2(3) thereof,

Having regard to the 2003 Act of Accession, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 8 December 2003, the Council authorised the Commission, on behalf of the Community and its Member States, to negotiate with Ukraine a Protocol to the Partnership and Cooperation Agreement to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, and to provide for certain technical adjustments linked to the institutional and legal developments within the European Union.
- (2) Subject to its possible conclusion at a later date, the Protocol initialled on 30 March 2004 should be signed on behalf of the European Community and its Member States.

- (3) The Protocol should be applied on a provisional basis as from the date of accession, pending completion of the relevant procedures for its formal conclusion,

HAS DECIDED AS FOLLOWS:

Article 1

The President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community and its Member States, the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA) on accession of the Czech Republic, the Republic of Cyprus, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA, subject to possible conclusion at a later stage.

The text of the Protocol is attached to this Decision ⁽¹⁾.

Article 2

Pending its entry into force, the Protocol shall be applied on a provisional basis from the date of accession.

Done at Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

⁽¹⁾ See page 16 of this Official Journal.

PROTOCOL

to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA), on accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as the 'Member States', represented by the Council of the European Union, and

THE EUROPEAN COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Communities', represented by the Council of the European Union and the European Commission,

of the one part, and

UKRAINE

of the other part,

hereinafter referred to as 'Parties' for the purposes of this Protocol,

HAVING REGARD TO the provisions of the Treaty between 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 (Member States of the European Union), and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, which was signed in Athens on 16 April 2003 and will enter into force on 1 May 2004,

CONSIDERING the new situation in relations between Ukraine and the European Union arising from the accession to the European Union of 10 new Member States, which opens opportunities and brings about challenges for the cooperation between Ukraine and the European Union,

TAKING INTO ACCOUNT the desire of the Parties to ensure the attainment and implementation of the objectives and principles of the PCA,

HAVE AGREED AS FOLLOWS:

Article 1

The Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic shall be Parties to the Partnership and Cooperation Agreement, establishing a partnership between the European Communities and their Member States, of the one part, and Ukraine, of the other part, signed in Luxembourg on 14 June 1994 and which entered into force on 1 March 1998 (hereinafter the Agreement) and shall respectively adopt and take note, in the same manner as other Member States of the Community, of the texts of the Agreement, and of the Joint Declarations, Declarations and Exchanges of Letters annexed to the Final Act signed on the same date and the Protocol to the Agreement of 10 April 1997 that entered into force on 12 October 2000.

Article 2

1. To take account of recent institutional developments within the European Union, the Parties agree that following the expiry of the Treaty establishing the European Coal and Steel Community, existing provisions in the Agreement referring to the European Coal and Steel Community shall be deemed to refer to the European Community which has taken over all rights and obligations contracted by the European Coal and Steel Community.

2. To take account of the institutional developments that have taken place in the international trading system of the GATT-WTO, the Parties agree that the existing references to the

GATT throughout the text of the Agreement shall be deemed to refer to the GATT 1994, and the provision 'Ukraine's accession to the GATT' shall be understood as 'Ukraine's accession to the WTO'.

3. To take account of the development of the treaty base of the European Energy Charter, the Parties agree that existing references to the European Energy Charter throughout the text of the Agreement shall be considered to include references to the Energy Charter Treaty and to the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects.

Article 3

This Protocol shall form an integral part of the Agreement.

Article 4

1. This Protocol shall be approved by the Communities, by the Council of the European Union on behalf of the Member States and by Ukraine in accordance with their own procedures.

2. The Parties shall notify each other of the completion of the corresponding procedures referred to in the preceding paragraph. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 5

1. This Protocol shall enter into force on the same day as the Treaty on Accession provided that all the instruments of approval of this Protocol have been deposited before that date.
2. Where not all instruments of approval of this Protocol have been deposited before that date, this Protocol shall enter into force on the first day of the first month following the date of the deposit of the last instrument of approval.
3. Where not all instruments of approval of this Protocol have been deposited before 1 May 2004, this Protocol shall apply provisionally with effect from 1 May 2004.

Article 6

The texts of the Agreement, the Final Act and all documents annexed to it, as well as the Protocol to the Agreement of

10 April 1997, are drawn up in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovene languages.

They are annexed ⁽¹⁾ to this Protocol and are equally authentic with the texts in the other languages in which the Agreement, the Final Act and the documents annexed to it, as well as the Protocol to the Agreement of 10 April 1997, are drawn up.

Article 7

This Protocol is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish and Ukrainian languages, each of these texts being equally authentic.

⁽¹⁾ The Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian versions of the Agreement shall be published in the special edition of the Official Journal at a later date.

Hecho en Dublín, el veintinueve de abril de dos mil cuatro.

V Dublinu dne dvacátého devátého dubna dva tisíce čtyři.

Udfærdiget i Dublin den niogtyvende april to tusind og fire.

Geschehen zu Dublin am neunundzwanzigsten April zweitausendundvier.

Kahe tuhanda neljanda aasta aprillikuu kahekümne üheksandal päeval Dublinis.

Έγινε στο Δουβλίνο, στις είκοσι εννέα Απριλίου δύο χιλιάδες τέσσερα.

Done at Dublin on the twenty-ninth day of April in the year two thousand and four.

Fait à Dublin, le vingt-neuf avril deux mille quatre.

Fatto a Dublino, addì ventinove aprile duemilaquattro.

Dublīnā, divi tūkstoši ceturā gada divdesmit devītajā aprīlī.

Priimta du tūkstančiai ketvirtų metų balandžio dvidešimt devintą dieną Dubline.

Kelt Dublinban, a kétezer-negyedik év április havának huszonkilencedik napján.

Magħmul f' Dublin fid-disgħa u ghoxrin jum ta' April tas-sena elfejn u erbgha.

Gedaan te Dublin, de negenentwintigste april tweeduizendvier.

Sporządzono w Dublinie, dnia dwudziestego dziewiątego kwietnia roku dwa tysiące czwartego.

Feito em Dublin, em vinte e nove de Abril de dois mil e quatro.

V Dubline dvadsiatehodeviateho apríla dvetisícštyri.

V Dublinu, dne devetindvajsetega aprila leta dva tisoč štiri.

Tehty Dublinissa kahdentenäkymmenentenäyhdeksäntenä päivänä huhtikuuta vuonna kaksituhattaneljä.

Som skedde i Dublin den tjugonionde april tjugohundrafyra.

Вчинено у Дубліні, двадцять дев'ятого квітня дві тисячі четвертого року.

Por los Estados miembros
 Za členské státy
 For medlemsstaterne
 Für die Mitgliedstaaten
 Liikmesriikide nimel
 Για τα κράτη μέλη
 For the Member States
 Pour les États membres
 Per gli Stati membri
 Dalībvalstu vārdā
 Valstybių narių vardu
 A tagállamok részéről
 Għall-Istati Membri
 Voor de lidstaten
 W imieniu Państw Członkowskich
 Pelos Estados-Membros
 Za členské státy
 Za države članice
 Jäsenvaltioiden puolesta
 På medlemsstaternas vägnar
 За Держави-Члени

Por las Comunidades Europeas
 Za Evropská společenství
 For De Europæiske Fællesskaber
 Für die Europäischen Gemeinschaften
 Euroopa ühenduste nimel
 Για τις Ευρωπαϊκές Κοινότητες
 For the European Communities
 Pour les Communautés européennes
 Per le Comunità europee
 Eiropas Kopienų vārdā
 Europos Bendrijų vardu
 Az Európai Közösségek részéről
 Għall-Komunitajiet Ewropej
 Voor de Europese Gemeenschappen
 W imieniu Wspólnot Europejskich
 Pelas Comunidades Europeias
 Za Európske spoločenstvá
 Za Evropske skupnosti
 Euroopan yhteisöjen puolesta
 På Europeiska gemenskapernas vägnar
 За Европейські Співтовариства

Por Ucrania
 Za Ukrajinu
 For Ukraine
 Für die Ukraine
 Ukraina nimel
 Για την Ουκρανία
 For Ukraine
 Pour l'Ukraine
 Per l'Ucraina
 Ukrainas vārdā
 Ukrainos vardu
 Ukrajna részéről
 Għall-Ukrajna
 Voor Oekraïne
 W imieniu Ukrainy
 Pela Ucrânia
 Za Ukrajinu
 Za Ukrajino
 Ukrainan puolesta
 På Ukrainas vägnar
 За Україну

COUNCIL AND COMMISSION DECISION

of 24 January 2006

on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA), on accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA

(2006/538/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with the second sentence of Article 300(2) and the first subparagraph of Article 300(3), thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the 2003 Treaty of Accession, and in particular Article 2(3) thereof,

Having regard to the 2003 Act of Accession, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

Whereas:

- (1) The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA), on accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA, was signed on behalf of the European Community and the Member States on 29 April 2004 in accordance with Council Decision 2006/537/EC ⁽²⁾.

- (2) Pending its entry into force, the Protocol has been applied on a provisional basis from the date of accession.

- (3) The Protocol should be approved,

HAVE DECIDED AS FOLLOWS:

Article 1

The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Ukraine, of the other part (PCA), on accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the PCA and on adjustments to the PCA is hereby approved on behalf of the European Community, the European Atomic Energy Community and the Member States.

The text of the Protocol is attached to this Decision ⁽³⁾.

Article 2

The President of the Council shall, on behalf of the European Community and its Member States, give the notification provided for in Article 4 of the Protocol. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 24 January 2006.

For the Council
The President
K.-H. GRASSER

For the Commission
The President
J. M. BARROSO

⁽¹⁾ OJ C 174 E, 14.7.2005, p. 45.

⁽²⁾ See page 15 of this Official Journal.

⁽³⁾ See page 16 of this Official Journal.

COUNCIL DECISION

of 22 May 2006

on the conclusion, on behalf of the European Community of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica

(2006/539/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with the first sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The Community has exclusive competence to adopt measures for the conservation and management of fishery resources and to enter into agreements with other countries and international organisations.
- (2) The Community is a Contracting Party to the United Nations Convention on the Law of the Sea, which requires all members of the international community to cooperate in conserving and managing the sea's biological resources.
- (3) On 19 December 2003 the Community signed and ratified 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 ⁽²⁾.
- (4) The Inter-American Tropical Tuna Commission (IATTC) was established by the Convention between the United States of America and the Republic of Costa Rica, concluded in 1949. During its 61st Meeting in June 1998, IATTC adopted a Resolution whereby Contracting Parties agreed to draw up a new Convention to strengthen the Commission and bring its statute up to date, in line with the provisions of the United Nations Convention on the Law of the Sea.

(5) The Community was invited to fully participate in this process since the beginning, and has played an active role therein. The process culminated in the adoption of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica (the Antigua Convention), at the 70th Meeting of the IATTC, held from 24 to 27 June 2003 in Antigua, Guatemala.

(6) The Antigua Convention was open for signature on 14 November 2003 in Washington DC, United States of America, and remained so until 31 December 2004, in accordance with Article XXVII thereof.

(7) The Community signed the Antigua Convention on 13 December 2004, in conformity with Council Decision 2005/26/EC ⁽³⁾.

(8) Community fishermen operate in the Antigua Convention area. It is thus in the Community's interest to become a member of the IATTC. The Community should therefore approve the Antigua Convention.

(9) The Antigua Convention aims at the maintenance in strengthened form of the IATTC. It is destined to replace the 1949 Convention once it enters into force for all parties to that Convention. Therefore, in accordance with the spirit of Council Decision 1999/405/EC of 10 June 1999 authorising the Kingdom of Spain to accede to the Convention establishing the Inter-American Tropical Tuna Commission on a temporary basis ⁽⁴⁾, once the Antigua Convention enters into force, Spain must denounce the 1949 Convention,

HAS DECIDED AS FOLLOWS:

Article 1

The Antigua Convention is hereby approved on behalf of the European Community.

⁽¹⁾ Assent of 27 April 2006 (not yet published in the Official Journal).

⁽²⁾ OJ L 189, 3.7.1998, p. 14.

⁽³⁾ OJ L 15, 19.1.2005, p. 9.

⁽⁴⁾ OJ L 155, 22.6.1999, p. 37.

The text of the Convention is attached to this Decision.

Article 3

On the entry into force of the Antigua Convention, Spain shall denounce the Convention establishing the Inter-American Tropical Tuna Commission.

Article 2

The President of the Council is hereby authorised to designate the persons empowered to deposit the instrument of approval with the Government of the United States of America as Depositary of the Convention in Accordance with Article XXXVII thereof.

Done at Brussels, 22 May 2006.

For the Council
The President
J. PRÖLL

CONVENTION

for the strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention)

THE PARTIES TO THIS CONVENTION:

AWARE THAT, in accordance with the relevant provisions of international law, as reflected in the United Nations Convention on the Law of the Sea (UNCLOS) of 1982, all States have the duty to take such measures as may be necessary for the conservation and management of living marine resources, including highly migratory species, and to cooperate with other States in taking such measures;

RECALLING 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 UNCLOS, and the right of all States for their nationals to engage in fishing on the high seas in accordance with UNCLOS;

REAFFIRMING their commitment to the Rio Declaration on Environment and Development and Agenda 21, particularly Chapter 17, adopted by the United Nations Conference on Environment and Development (1992), and to the Johannesburg Declaration and Plan of Implementation adopted by the World Summit on Sustainable Development (2002);

STRESSING THE NEED to implement the principles and standards of the Code of Conduct for Responsible Fisheries adopted by the Conference of the Food and Agriculture Organisation of the United Nations (FAO) in 1995, including the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, which forms an integral part of the Code, as well as the International Plans of Action adopted by FAO within the framework of the Code of Conduct;

TAKING NOTE that the 50th General Assembly of the United Nations, pursuant to resolution A/RES/50/24, adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks (the 1995 UN Fish Stocks Agreement);

CONSIDERING the importance of fishing for highly migratory fish stocks as a source of food, employment and economic benefits for the populations of the Parties and that conservation and management measures must address those needs and take into account the economic and social impacts of those measures;

TAKING into account the special circumstances and requirements of the developing countries of the region, particularly the coastal countries, in order to achieve the objective of the Convention;

RECOGNISING the significant efforts and the outstanding achievements of the Inter-American Tropical Tuna Commission, as well as the importance of its work in the tuna fisheries in the Eastern Pacific Ocean;

DESIROUS TO benefit from the experiences derived from the implementation of the 1949 Convention;

REAFFIRMING that multilateral cooperation constitutes the most effective means for achieving the objectives of conservation and sustainable use of living marine resources;

COMMITTED to ensuring the long-term conservation and the sustainable use of fish stocks covered by this Convention;

CONVINCED THAT the aforementioned objectives and the strengthening of the Inter-American Tropical Tuna Commission can best be achieved through bringing up to date the provisions of the 1949 Convention between the United States of America and the Republic of Costa Rica for the establishment of an Inter-American Tropical Tuna Commission;

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

Article I

Definitions

For the purposes of this Convention:

1. 'fish stocks covered by this Convention' means stocks of tunas and tuna-like species and other species of fish taken by vessels fishing for tunas and tuna-like species in the Convention area;
2. 'fishing' means:
 - (a) the actual or attempted searching for, catching, or harvesting of the fish stocks covered by this Convention;
 - (b) engaging in any activity which can reasonably be expected to result in the locating, catching, harvesting of these stocks;
 - (c) placing, searching for or recovering any fish-aggregating device or associated equipment, including radio beacons;
 - (d) any operation at sea in support of, or in preparation for, any activity described in sub-paragraphs (a), (b) and (c) of this paragraph, except for any operation in emergencies involving the health and safety of crew members or the safety of a vessel;
 - (e) the use of any other vehicle, air- or sea-borne, in relation to any activity described in this definition except for emergencies involving the health or safety of crew members or the safety of a vessel;
3. 'vessel' means any vessel used or intended for use for the purpose of fishing, including support vessels, carrier vessels and any other vessels directly involved in such fishing operations;
4. 'flag State' means, unless otherwise indicated:
 - (a) a State whose vessels are entitled to fly its flag,
 - or
 - (b) a regional economic integration organisation in which vessels are entitled to fly the flag of a member State of that regional economic integration organisation;
5. 'Consensus' means the adoption of a decision without voting and without the expression of any stated objection;
6. 'Parties' means the States and regional economic integration organisations which have consented to be bound by this Convention and for which this Convention is in force, in accordance with the provisions of Articles XXVII, XXIX, and XXX of this Convention;
7. 'Members of the Commission' means the Parties and any fishing entity which has expressed in accordance with the provisions of Article XXVIII of this Convention its formal commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant thereto;
8. 'Regional economic integration organisation' means a regional economic integration organisation to which its member States have transferred competence over matters covered by this Convention, including the authority to make decisions binding on its member States in respect of those matters;
9. '1949 Convention' means the Convention between the United States of America and the Republic of Costa Rica for the establishment of an Inter-American Tropical Tuna Commission;
10. 'Commission' means the Inter-American Tropical Tuna Commission;
11. 'UNCLOS' means the United Nations Convention on the Law of the Sea of 10 December 1982;
12. '1995 UN Fish Stocks Agreement' means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995;

13. 'Code of Conduct' means the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organisation of the United Nations in October 1995;
14. 'AIDCP' means the Agreement on the International Dolphin Conservation Programme of 21 May 1998.

Article II

Objective

The objective of this Convention is to ensure the long-term conservation and sustainable use of the fish stocks covered by this Convention, in accordance with the relevant rules of international law.

Article III

Area of application of the convention

The area of application of the Convention (the Convention area) comprises the area of the Pacific Ocean bounded by the coastline of North, Central, and South America and by the following lines:

- (i) the 50° N parallel from the coast of North America to its intersection with the 150° W meridian;
 - (ii) the 150° W meridian to its intersection with the 50° S parallel;
- and
- (iii) the 50° S parallel to its intersection with the coast of South America.

PART II

CONSERVATION AND USE OF THE FISH STOCKS COVERED BY THE CONVENTION

Article IV

Application of the precautionary approach

1. The members of the Commission, directly and through the Commission, shall apply the precautionary approach, as described in the relevant provisions of the Code of Conduct and/or the 1995 UN Fish Stocks Agreement, for the conservation, management and sustainable use of fish stocks covered by this Convention.
2. In particular, the members of the Commission 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. Where the status of target stocks or non-target or associated or dependent species is of concern, the members of the Commission 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 scientific information available.

Article V

Compatibility of conservation and management measures

1. Nothing in this Convention shall prejudice or undermine the sovereignty or sovereign rights of coastal States related to the exploration and exploitation, conservation and management of the living marine resources within areas under their sovereignty or national jurisdiction as provided for in UNCLOS, or the right of all States for their nationals to engage in fishing on the high seas in accordance with UNCLOS.
2. The conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible, in order to ensure the conservation and management of the fish stocks covered by this Convention.

PART III

THE INTER-AMERICAN TROPICAL TUNA COMMISSION

Article VI

The Commission

1. The members of the Commission agree to maintain, with all its assets and liabilities, and to strengthen the Inter-American Tropical Tuna Commission established by the 1949 Convention.
2. The Commission shall be composed of sections consisting of from one (1) to four (4) Commissioners appointed by each member, who may be accompanied by such experts and advisers as that member may deem advisable.
3. The Commission shall have legal personality and shall enjoy, in its relations with other international organisations and with its members, such legal capacity as may be necessary to perform its functions and achieve its objective, in accordance with international law. The immunities and privileges which the Commission and its officers shall enjoy shall be subject to an agreement between the Commission and the relevant member.

4. The headquarters of the Commission shall remain at San Diego, California, United States of America.

Article VII

Functions of the Commission

1. The Commission shall perform the following functions, giving priority to tunas and tuna-like species:

- (a) promote, carry out and coordinate scientific research concerning the abundance, biology and biometry in the Convention area of fish stocks covered by this Convention and, as necessary, of associated or dependent species, and the effects of natural factors and human activities on the populations of these stocks and species;
- (b) adopt standards for collection, verification, and timely exchange and reporting of data concerning the fisheries for fish stocks covered by this Convention;
- (c) adopt measures that are based on the best scientific evidence available to ensure the long-term conservation and sustainable use of the fish stocks covered by this Convention and to maintain or restore the populations of harvested species at levels of abundance which can produce the maximum sustainable yield, *inter alia*, through the setting of the total allowable catch of such fish stocks as the Commission may decide and/or the total allowable level of fishing capacity and/or level of fishing effort for the Convention area as a whole;
- (d) determine whether, according to the best scientific information available, a specific fish stock covered by this Convention is fully fished or overfished and, on this basis, whether an increase in fishing capacity and/or the level of fishing effort would threaten the conservation of that stock;
- (e) in relation to the stocks referred to in subparagraph (d) of this paragraph, determine, on the basis of criteria that the Commission may adopt or apply, the extent to which the fishing interests of new members of the Commission might be accommodated, taking into account relevant international standards and practices;
- (f) adopt, as necessary, conservation and management measures and recommendations for species belonging to the same ecosystem and that are affected by fishing for, or dependent on or associated with, the fish stocks covered by this Convention, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;
- (g) adopt appropriate measures to avoid, reduce and minimise waste, discards, catch by lost or discarded gear, catch of non-target species (both fish and non-fish species) and impacts on associated or dependent species, in particular endangered species;
- (h) adopt appropriate 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 the fish stocks covered by this Convention;
- (i) establish a comprehensive programme for data collection and monitoring which shall include such elements as the Commission determines necessary. Each member of the Commission may also maintain its own programme consistent with guidelines adopted by the Commission;
- (j) ensure that, in developing measures to be adopted under subparagraphs (a) to (i) of this paragraph, due consideration is given to the need for coordination and compatibility with measures adopted pursuant to the AIDCP;
- (k) promote, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques and such other related activities, including activities connected with, *inter alia*, transfer of technology and training;
- (l) where necessary, develop criteria for, and make decisions relating to, the allocation of total allowable catch, or total allowable fishing capacity, including carrying capacity, or the level of fishing effort, taking into account all relevant factors;
- (m) apply the precautionary approach in accordance with the provisions of Article IV of this Convention. In cases where measures are adopted by the Commission pursuant to the precautionary approach in the absence of adequate scientific information, as set out in Article IV(2) of this Convention, the Commission shall, as soon as possible, undertake to obtain the scientific information necessary to maintain or modify any such measures;
- (n) promote the application of any relevant provision of the Code of Conduct and of other relevant international instruments including, *inter alia*, the International Plans of Action adopted by FAO in the framework of the Code of Conduct;
- (o) appoint the Director of the Commission;
- (p) approve its programme of work;
- (q) approve its budget, in accordance with provisions of Article XIV of this Convention;

- (r) approve the accounts for the past budgetary period;
- (s) adopt or amend its own rules and procedures, financial regulations and other internal administrative regulations as may be necessary to carry out its functions;
- (t) provide the Secretariat for the AIDCP, taking into account the provisions of Article XIV(3) of this Convention;
- (u) establish such subsidiary bodies as it considers necessary;
- (v) adopt any other measure or recommendation, based on relevant information, including the best scientific information available, as may be necessary to achieve the objective of this Convention, including non-discriminatory and transparent measures consistent with international law, to prevent, deter and eliminate activities that undermine the effectiveness of the conservation and management measures adopted by the Commission.

2. The Commission shall maintain a staff qualified in matters pertaining to this Convention, including administrative, scientific and technical areas, under the supervision of the Director, and ensure that it shall include all personnel needed for the efficient and effective application of this Convention. The Commission should seek the most qualified staff available, and give due consideration to the importance of recruiting staff on an equitable basis to promote broad representation and participation of the members of the Commission.

3. In considering guidance for the programme of work on scientific matters to be addressed by the scientific staff, the Commission shall consider, *inter alia*, the advice, recommendations, and reports of the Scientific Advisory Committee established pursuant to Article XI of this Convention.

Article VIII

Meetings of the Commission

1. The ordinary meetings of the Commission shall take place at least once a year, in such location and on such date as the Commission agrees.

2. The Commission may also hold extraordinary meetings when deemed necessary. These meetings shall be convened at the request of at least two of the members of the Commission, provided that a majority of the members support the request.

3. The meetings of the Commission shall be held only when a quorum is present. Quorum is reached when two-thirds of the members of the Commission are present. This rule shall also apply to meetings of subsidiary bodies established under this Convention.

4. The meetings shall be held in English and Spanish, and the documents of the Commission shall be produced in both these languages.

5. Members shall elect a Chairman and Vice-Chairman from, unless otherwise decided, different Parties to this Convention. Both officials shall be elected for a period of one (1) year and shall remain in office until their successors are elected.

Article IX

Decision making

1. Unless provided otherwise, all decisions made by the Commission at meetings convened pursuant to Article VIII of this Convention shall be by consensus of members of the Commission present at the meeting in question.

2. Decisions on adoption of amendments to this Convention and its annexes, as well as invitations to accede to the Convention pursuant to Article XXX(c) of this Convention, shall require consensus of all Parties. In such cases, the Chairman of the meeting shall ensure that all members of the Commission have the opportunity to express their views on the proposed decisions, which the Parties shall take into account in reaching the final decision.

3. The consensus of all the members of the Commission shall be required for decisions on:

(a) the adoption and amendment of the Commission's budget, and those that determine the form and proportion of the contributions of the members;

(b) the issues referred to in Article VII(l)(l) of this Convention.

4. With respect to decisions referred to in paragraphs 2 and 3 of this Article, if a Party or member of the Commission, as the case may be, is absent from the meeting in question and has not sent a notification in accordance with paragraph 6 of this Article, the Director shall notify such Party or member of the decision taken at the meeting. If, within thirty (30) days of the receipt by the Party or member of such notification, the Director has not received a response from such Party or member, that Party or member shall be deemed to have joined the consensus on the decision in question. If, within such 30-day period, such Party or member replies in writing that it cannot join the consensus on the decision in question, the decision shall have no effect, and the Commission shall seek to reach consensus at the earliest opportunity.

5. When a Party or member of the Commission that was not present at a meeting notifies the Director, in accordance with paragraph 4 of this Article, that it cannot join the consensus on a decision taken at that meeting, that member shall not be able to oppose consensus on the same issue if it is not present at the next meeting of the Commission at which that issue is on the agenda.

6. If a member of the Commission is not able to attend a meeting of the Commission due to extraordinary and unforeseen circumstances outside its control:

(a) it shall so notify the Director, in writing, prior to the start of the meeting if possible or otherwise at the earliest possible opportunity. Such notification shall be effective upon acknowledgement of its receipt by the Director to the member concerned;

and

(b) subsequently and as soon as possible, the Director shall notify the member of all the decisions taken at that meeting in accordance with paragraph 1 of this Article;

(c) within thirty (30) days of the notice referred to in subparagraph (b) of this paragraph, the member may notify the Director in writing that it cannot join the consensus on one or more of these decisions. In such cases, the relevant decision or decisions shall have no effect, and the Commission shall seek to reach consensus at the earliest opportunity.

7. The decisions adopted by the Commission pursuant to this Convention shall be binding for all members forty-five (45) days after their notification, unless otherwise specified in this Convention or agreed when a decision is taken.

Article X

Committee for the Review of Implementation of Measures Adopted by the Commission

1. The Commission shall establish a Committee for the review of implementation of measures adopted by the Commission, which shall be composed of those representatives designated for this purpose by each member of the Commission, who may be accompanied by such experts and advisers as that member may deem advisable.

2. The functions of the Committee shall be those established in Annex 3 of this Convention.

3. In the exercise of its functions, the Committee may, where appropriate, and with the approval of the Commission, consult any other fisheries management, technical or scientific organisation with competence in the subject matter of such consultation and may seek such expert advice as may be required in each case.

4. The Committee shall strive to adopt its reports and recommendations by consensus. If every effort to achieve consensus has failed, the reports shall so indicate, and shall reflect the majority and minority views. At the request of any member of the Committee, the views of that member on all or any part of the reports shall also be reflected.

5. The Committee shall meet at least once a year, preferably on the occasion of the ordinary meeting of the Commission.

6. The Committee may convene additional meetings at the request of at least two (2) of the members of the Commission, provided that a majority of the members support the request.

7. The Committee shall exercise its functions in accordance with such rules of procedure, guidelines and directives as the Commission may adopt.

8. In support of the work of the Committee, the staff of the Commission shall:

(a) collect the information necessary for the work of the Committee and develop a data base, in accordance with the procedures established by the Commission;

(b) provide such statistical analyses as the Committee deems necessary for carrying out its functions;

(c) prepare the reports of the Committee;

(d) distribute to the members of the Committee all pertinent information, particularly that set out in paragraph 8(a) of this Article.

Article XI

Scientific Advisory Committee

1. The Commission shall establish a Scientific Advisory Committee, which shall be composed of a representative designated by each member of the Commission, who shall have appropriate qualifications or relevant experience in the area of competence of the Committee, and who may be accompanied by such experts or advisers as that member may deem advisable.

2. The Commission may invite to participate in the work of the Committee organisations or persons with recognised scientific experience in matters related to the work of the Commission.

3. The functions of the Committee shall be those established in Annex 4 of this Convention.

4. The Committee shall meet at least once a year, preferably prior to a meeting of the Commission.

5. The Committee may convene additional meetings at the request of at least two (2) of the members of the Commission, provided that a majority of the members support the request.

6. The Director shall serve as Chairman of the Committee or may delegate the exercise of this function subject to the approval of the Commission.

7. The Committee shall strive to adopt its reports and recommendations by consensus. If every effort to achieve consensus has failed, the reports shall so indicate, and shall reflect the majority and minority views. At the request of any member of the Committee, the views of that member on all or any part of the reports shall also be reflected.

Article XII

Administration

1. The Commission shall appoint, in accordance with the adopted rules of procedure and taking into account any criteria established therein, a Director, whose competence in the field of this Convention is established and generally recognised, in particular in its scientific, technical and administrative aspects, and who shall be responsible to the Commission and may be removed by the Commission at its discretion. The term of the Director shall be for four years, and he may be reappointed as many times as the Commission decides.

2. The functions of the Director shall be:

- (a) preparing research plans and programmes for the Commission;
- (b) preparing budget estimates for the Commission;
- (c) authorising the disbursement of funds for the implementation of the approved programme of work and budget by the Commission and accounting for the funds thus employed;
- (d) appointing, removing and directing the administrative, scientific, technical and other staff, required for the functions of the Commission, in accordance with the rules of procedure adopted by the Commission;
- (e) where appropriate for the efficient functioning of the Commission, appointing a Coordinator of Scientific Research, in accordance with subparagraph (d) of paragraph 2 of this Article, who shall operate under the supervision of the Director, who shall assign to the Coordinator of Scientific Research such functions and responsibilities as the Director determines appropriate;

(f) arranging for cooperation with other organisations or individuals, as appropriate, when needed for the performance of the functions of the Commission;

(g) coordinating the work of the Commission with that of organisations and individuals whose cooperation the Director has arranged;

(h) drafting administrative, scientific and other reports for the Commission;

(i) preparing draft agendas for and convening the meetings of the Commission and its subsidiary bodies, in consultation with the members of the Commission and taking into account their proposals, and providing administrative and technical support for such meetings;

(j) ensuring the publication and dissemination of the conservation and management measures which have been adopted by the Commission and are in force and, as far as practicable, the maintenance and dissemination of records of other applicable conservation and management measures adopted by the members of the Commission in force in the Convention area;

(k) ensuring the maintenance of a record, based, *inter alia*, on the information provided to the Commission pursuant to Annex 1 of this Convention, of vessels fishing in the Convention area, as well as the periodic circulation of the information contained in such record to all members of the Commission, and, on request, to any member individually;

(l) acting as the legal representative of the Commission;

(m) performing such other functions as are necessary to ensure the efficient and effective operation of the Commission and others that may be assigned to him by the Commission.

3. In fulfilling their functions, the Director and the staff of the Commission shall not act in any manner that could be incompatible with their status or with the objective and provisions of this Convention, nor shall they have any financial interests in activities such as investigation and research, exploration, exploitation, processing and marketing of the fish stocks covered by this Convention. Likewise, they shall also maintain as confidential, while they are employed by the Commission and thereafter, any confidential information they obtained or to which they had access during their employment.

*Article XIII***Scientific staff**

The scientific staff shall operate under the supervision of the Director, and of the Coordinator of Scientific Research if appointed in accordance with Article XII(2)(d) and (e) of this Convention, and shall have the following functions, giving priority to tunas and tuna-like species:

- (a) conduct the scientific research projects and other research activities approved by the Commission in accordance with the plans of work adopted for this purpose;
- (b) provide the Commission, through the Director, with scientific advice and recommendations in support of the formulation of conservation and management measures and other relevant matters, following consultations with the Scientific Advisory Committee, except in circumstances where evident time constraints would limit the ability of the Director to provide the Commission with such advice or recommendations on a timely basis;
- (c) provide the Scientific Advisory Committee with the information necessary to carry out the functions specified in Annex 4 of this Convention;
- (d) provide the Commission, through the Director, with recommendations for scientific research in support of the Commission's functions in accordance with Article VII(1)(a) of this Convention;
- (e) collect and analyse information relating to current and past conditions and trends of the populations of the fish stocks covered by this Convention;
- (f) provide the Commission, through the Director, with proposed standards for collection, verification, and timely exchange and reporting of data concerning the fisheries for fish stocks covered by this Convention;
- (g) collect statistical data and all kinds of reports concerning catches of fish stocks covered by this Convention and the operations of vessels in the Convention area, and any other relevant information concerning fisheries for such stocks, including, as appropriate, social and economic aspects;
- (h) study and appraise information concerning methods and procedures for maintaining and increasing the fish stocks covered by this Convention;

- (i) publish or otherwise disseminate reports on its findings and such other reports as fall within the scope of this Convention as well as scientific, statistical and other data relating to the fisheries for the fish stocks covered by this Convention, ensuring confidentiality in conformity with the provisions of Article XXII of this Convention;
- (j) perform such other functions and tasks as may be assigned to it.

*Article XIV***Budget**

1. The Commission shall adopt each year its budget for the following year, in accordance with Article IX(3) of this Convention. In determining the size of the budget, the Commission shall give due consideration to the principle of cost effectiveness.
2. The Director shall submit to the Commission for consideration a detailed draft annual budget that shall identify the disbursements to be made from contributions referred to in Article XV(1) and those referred to in Article XV(3), of this Convention.
3. The Commission shall maintain separate accounts for the activities carried out under this Convention and under the AIDCP. The services to be provided to the AIDCP and the corresponding estimated costs shall be specified in the Commission's budget. The Director shall provide to the Meeting of the Parties to the AIDCP for its approval, and prior to the year in which the services are to be provided, estimates of services and their costs corresponding to the tasks to be carried out pursuant to that Agreement.
4. The accounts of the Commission shall be subjected to an annual independent financial audit.

*Article XV***Contributions**

1. The amount of the contribution of each member of the Commission to the budget shall be determined in accordance with the scheme which the Commission shall adopt, and amend, as required, in accordance with Article IX(3) of this Convention. The scheme adopted by the Commission shall be transparent and equitable for all members and shall be set out in the financial regulations of the Commission.
2. The contributions agreed pursuant to the provisions of paragraph 1 of this Article shall enable the operation of the Commission and cover in a timely manner the annual budget adopted in accordance with Article XIV(1) of this Convention.

3. The Commission shall establish a fund to receive voluntary contributions for research on and conservation of the fish stocks covered by this Convention and, as appropriate, associated or dependent species, and for the conservation of the marine environment.

4. Notwithstanding the provisions of Article IX of this Convention, unless the Commission decides otherwise, if a member of the Commission is in arrears in the payment of its contributions by an amount equal to or greater than the total of the contributions due from it for the preceding twenty-four (24) months, that member shall not have the right to participate in decision-making in the Commission until it has fulfilled its obligations pursuant to this Article.

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

Article XVI

Transparency

1. The Commission shall promote transparency in the implementation of this Convention in its decision-making processes and other activities, *inter alia*, through:

(a) the public dissemination of pertinent non-confidential information;

and

(b) as appropriate, facilitating consultations with, and the effective participation of, non-governmental organisations, representatives of the fishing industry, particularly the fishing fleet, and other interested bodies and individuals.

2. Representatives of non-Parties, relevant intergovernmental organisations, and non-governmental organisations, including environmental organisations with recognised experience in matters pertaining to the Commission and the tuna industry of any of the members of the Commission operating in the Convention area, particularly the tuna fishing fleet, shall be afforded the opportunity to take part in the meetings of the Commission and of its subsidiary organs, as observers or otherwise, as appropriate, in accordance with the principles and criteria established in Annex 2 of this Convention as well as others that the Commission may adopt. Such participants shall have timely access to relevant information, subject to the rules of procedure and of confidentiality on access to such information that the Commission may adopt.

PART IV

RIGHTS AND OBLIGATIONS OF MEMBERS OF THE COMMISSION

Article XVII

Rights of States

No provision of this Convention may be interpreted in such a way as to prejudice or undermine the sovereignty, sovereign rights, or jurisdiction exercised by any State in accordance with international law, as well as its position or views with regard to matters relating to the law of the sea.

Article XVIII

Implementation, compliance and enforcement by Parties

1. Each Party shall take the measures necessary to ensure the implementation of and compliance with this Convention and any conservation and management measures adopted pursuant thereto, including the adoption of the necessary laws and regulations.

2. Each Party shall provide to the Commission all the information that may be required for the fulfillment of the objective of this Convention, including statistical and biological information and information concerning its fishing activities in the Convention area, and shall provide to the Commission information regarding actions taken to implement the measures adopted in accordance with this Convention, whenever required by the Commission and as appropriate, subject to the provisions of Article XXII of this Convention and in accordance with the rules of procedure to be developed and adopted by the Commission.

3. Each Party shall promptly, through the Director, inform the Committee for the review of implementation of measures adopted by the Commission established pursuant to the provisions of Article X of this Convention of:

(a) legal and administrative provisions, including those regarding infractions and sanctions, applicable to compliance with conservation and management measures adopted by the Commission;

(b) actions taken to ensure compliance with conservation and management measures adopted by the Commission, including, if appropriate, an analysis of individual cases and the final decision taken.

4. Each Party shall:
- (a) authorise the use and release, subject to any applicable rules of confidentiality, of pertinent information recorded by on-board observers of the Commission or a national programme;
 - (b) ensure that vessel owners and/or captains allow the Commission, in accordance with the rules of procedure adopted by the Commission in this respect, to collect and analyse information necessary for carrying out the functions of the Committee for the Review of Implementation of Measures Adopted by the Commission;
 - (c) provide to the Commission every six months a report on the activities of its tuna-fishing vessels and any other information necessary for the work of the Committee for the Review of Implementation of Measures Adopted by the Commission.
5. Each Party shall take measures to ensure that vessels operating in waters under its national jurisdiction comply with this Convention and the measures adopted pursuant thereto.
6. Each Party, where it has reasonable grounds to believe that a vessel flying the flag of another State has engaged in any activity that undermines the effectiveness of conservation and management measures adopted for the Convention area, shall draw this to the attention of the flag State concerned and may, as appropriate, draw the matter to the attention of the Commission. The Party in question shall provide the flag State with full supporting evidence and may provide the Commission with a summary of such evidence. The Commission shall not circulate such information until such time as the flag State has had an opportunity to comment, within a reasonable time, on the allegation and evidence submitted for its consideration, or to object, as the case may be.
7. Each Party, at the request of the Commission or of any other Party, when provided with relevant information that a vessel under its jurisdiction has carried out activities which contravene the measures adopted pursuant to this Convention, shall carry out a thorough investigation, and if appropriate proceed in accordance with its national legislation and inform, as soon as possible, the Commission and, if applicable, the other Party, of the results of its investigations and the actions taken.
8. Each Party shall apply, in accordance with its national laws and in a manner consistent with international law, sanctions of sufficient gravity as to be effective in securing compliance with the provisions of this Convention and of measures adopted pursuant thereto and to deprive offenders of the benefits accruing from their illegal activities, including, as appropriate, refusal, suspension or withdrawal of the authorisation to fish.

9. The Parties whose coasts border the Convention area or whose vessels fish for fish stocks covered by this Convention or in whose territory the catch is landed and processed shall cooperate with a view to ensuring compliance with this Convention and with a view to ensuring the application of the conservation and management measures adopted by the Commission, including through the adoption of cooperative measures and schemes, as appropriate.

10. If the Commission determines that vessels fishing in the Convention area have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures adopted by the Commission, the Parties may take action, following the recommendations adopted by the Commission and in accordance with this Convention and international law, to deter such vessels from such activities until such time as appropriate action is taken by the flag State to ensure that such vessels do not continue those activities.

Article XIX

Implementation, compliance and enforcement by fishing entities

Article XVIII of this Convention applies, *mutatis mutandis*, to fishing entities that are members of the Commission.

Article XX

Duties of flag States

1. Each Party shall, in accordance with international law, take such measures as may be necessary to ensure that vessels flying its flag comply with the provisions of this Convention and the conservation and management measures adopted pursuant thereto, and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. No Party shall allow any vessel entitled to fly its flag to be used for fishing for fish stocks covered by this Convention unless it has been authorised to do so by the appropriate authority or authorities of that Party. A Party shall authorise the use of vessels flying its flag for fishing in the Convention area only where it is able to exercise effectively its responsibilities in respect of such vessels under this Convention.

3. In addition to its obligations under paragraphs 1 and 2 of this Article, each Party shall take such measures as may be necessary to ensure that vessels flying its flag do not fish in areas under the sovereignty or national jurisdiction of any other State in the Convention area without the corresponding license, permit or authorisation issued by the competent authorities of that State.

Article XXI

Duties of fishing entities

Article XX of this Convention applies, *mutatis mutandis*, to fishing entities that are members of the Commission.

PART V

CONFIDENTIALITY

Article XXII

Confidentiality

1. The Commission shall establish rules of confidentiality for all bodies and individuals given access to information pursuant to this Convention.

2. Notwithstanding any confidentiality rules which may be adopted in accordance with paragraph 1 of this Article, any persons with access to such confidential information may disclose such information in connection with legal or administrative proceedings, if requested by the competent authority concerned.

PART VI

COOPERATION

Article XXIII

Cooperation and assistance

1. The Commission shall seek to adopt measures relating to technical assistance, technology transfer, training and other forms of cooperation, to assist developing countries that are members of the Commission to fulfill their obligations under this Convention, as well as to enhance their ability to develop fisheries under their respective national jurisdictions and to participate in high seas fisheries on a sustainable basis.

2. The members of the Commission shall facilitate and promote such cooperation, especially financial and technical, and the transfer of technology, as may be necessary for the effective implementation of paragraph 1 of this Article.

Article XXIV

Cooperation with other organisations or arrangements

1. The Commission shall cooperate with subregional, regional, and global fishery organisations and arrangements and, as appropriate, shall establish relevant institutional arrangements such as consultative committees, in agreement with such organisations or arrangements, with the goal of promoting the achievement of the objective of this Convention, obtaining the best available scientific information, and avoiding duplication with respect to their work.

2. The Commission, in agreement with the relevant organisations or arrangements, shall adopt the rules of operation for the institutional arrangements established in accordance with paragraph 1 of this Article.

3. Where the Convention area overlaps with an area under regulation by another fisheries management organisation, the Commission shall cooperate with such other organisation in order to ensure that the objective of this Convention is reached. To this end, through consultations or other arrangements, the Commission shall strive to agree with the other organisation on the relevant measures to be taken, such as ensuring the harmonisation and compatibility of the conservation and management measures adopted by the Commission and the other organisation, or deciding that the Commission or the other organisation, as appropriate, avoid taking measures in respect of species in that area which are regulated by the other.

4. The provisions of paragraph 3 of this Article shall be applied, as appropriate, to the case of fish stocks that migrate through areas under the purview of the Commission and of another organisation or organisations or arrangements.

PART VII

SETTLEMENT OF DISPUTES

Article XXV

Settlement of disputes

1. The members of the Commission shall cooperate in order to prevent disputes. Any member may consult with one or more members about any dispute related to the interpretation or application of the provisions of this Convention to reach a solution satisfactory to all as quickly as possible.

2. If a dispute is not settled through such consultation within a reasonable period, the members in question shall consult among themselves as soon as possible in order to settle the dispute through any peaceful means they may agree upon, in accordance with international law.

3. In cases when two or more members of the Commission agree that they have a dispute of a technical nature, and they are unable to resolve the dispute among themselves, they may refer the dispute, by mutual consent, to a non-binding ad hoc expert panel constituted within the framework of the Commission in accordance with the procedures adopted for this purpose by the Commission. The panel shall confer with the members concerned and shall endeavor to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

PART VIII

NON-MEMBERS

Article XXVI

Non-members

1. The Commission and its members shall encourage all States and regional economic integration organisations referred to in Article XXVII of this Convention and, as appropriate, fishing entities referred to in Article XXVIII of this Convention that are not members of the Commission to become members or to adopt laws and regulations consistent with this Convention.

2. The members of the Commission shall exchange information among themselves, either directly or through the Commission, with respect to activities of vessels of non-members that undermine the effectiveness of this Convention.

3. The Commission and its members shall cooperate, consistent with this Convention and international law, to jointly deter vessels of non-members from carrying out activities that undermine the effectiveness of this Convention. To this end, the members shall, *inter alia*, call to the attention of non-members such activities by their vessels.

PART IX

FINAL PROVISIONS

Article XXVII

Signature

1. This Convention shall be open for signature at Washington from 14 November 2003 until 31 December 2004 by:

- (a) the Parties to the 1949 Convention;
- (b) States not Party to the 1949 Convention with a coastline bordering the Convention area;

and

- (c) States and regional economic integration organisations which are not Parties to the 1949 Convention and whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention and that participated in the negotiation of this Convention;

and

- (d) other States which are not Parties to the 1949 Convention and whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention, following consultations with the Parties to the 1949 Convention.

2. In relation to the regional economic integration organisations referred to in paragraph 1 of this Article, no member State of such organisations may sign this Convention unless it represents a territory which lies outside the territorial scope of the treaty establishing the organisation and provided that such member State's participation be limited to representing only the interests of that territory.

Article XXVIII

Fishing entities

1. Any fishing entity whose vessels have fished for fish stocks covered by this Convention at any time during the four years preceding the adoption of this Convention may express its firm commitment to abide by the terms of this Convention and comply with any conservation and management measures adopted pursuant thereto, by:

- (a) signing, during the period referred to in Article XXVII(1) of this Convention, an instrument drafted to this effect in accordance with a resolution to be adopted by the Commission under the 1949 Convention;

and/or

- (b) during or after the abovementioned period, providing a written communication to the Depositary in accordance with a resolution to be adopted by the Commission under the 1949 Convention. The Depositary shall promptly provide a copy of this communication to all signatories and Parties.

2. The commitment expressed pursuant to paragraph 1 of this Article shall be effective from the date referred to in Article XXXI(1), of this Convention, or on the date of the written communication referred to in paragraph 1 of this Article, whichever is later.

3. Any fishing entity referred to above may express its firm commitment to abide by the terms of this Convention as it may be amended pursuant to Article XXXIV or Article XXXV of this Convention by providing a written communication to this effect to the Depositary in accordance with the resolution referred to in paragraph 1 of this Article.

4. The commitment expressed pursuant to paragraph 3 of this Article shall be effective from the dates referred to in Article XXXIV(3), and Article XXXV(4) of this Convention, or on the date of the written communication referred to in paragraph 3 of this Article, whichever is later.

Article XXIX

Ratification, acceptance or approval

This Convention is subject to ratification, acceptance or approval by the signatories in accordance with their domestic laws and procedures.

Article XXX

Accession

This Convention shall remain open to accession by any State or regional economic integration organisation:

(a) that meets the requirements of Article XXVII of this Convention;

or

(b) whose vessels fish for fish stocks covered by this Convention, following consultations with the Parties;

or

(c) that is otherwise invited to accede on the basis of a decision by the Parties.

Article XXXI

Entry into force

1. This Convention shall enter into force fifteen (15) months after the deposit with the Depositary of the seventh instrument of ratification, acceptance, approval, or accession of the Parties to the 1949 Convention that were Parties to that Convention on the date this Convention was opened for signature.

2. After the date of entry into force of this Convention, with respect to each State or regional economic integration organisation that meets the requirements of Article XXVII or Article XXX, this Convention shall enter into force for said State or regional economic integration organisation on the thirtieth (30th) day following the deposit of its instrument of ratification, acceptance, approval, or accession.

3. Upon entry into force of this Convention, this Convention shall prevail, as between Parties to this Convention and the 1949 Convention, over the 1949 Convention.

4. Upon the entry into force of this Convention, conservation and management measures and other arrangements adopted by the Commission under the 1949 Convention shall remain in force until such time as they expire, are terminated by a decision of the Commission, or are replaced by other measures or arrangements adopted pursuant to this Convention.

5. Upon entry into force of this Convention, a Party to the 1949 Convention that has not yet consented to be bound by this Convention shall be deemed to remain a member of the Commission unless such Party elects not to remain a member of the Commission by so notifying the Depositary in writing prior to the entry into force of this Convention.

6. Upon entry into force of this Convention for all Parties to the 1949 Convention, the 1949 Convention shall be considered as terminated in accordance with the relevant rules of international law as reflected in Article 59 of the Vienna Convention on the Law of Treaties.

Article XXXII

Provisional application

1. In accordance with its laws and regulations, a State or regional economic integration organisation that meets the requirements of Article XXVII or Article XXX of this Convention may apply this Convention provisionally by so notifying the Depositary in writing. Such provisional application shall commence on the later of the date of entry into force of this Convention and the date of receipt of such notification by the Depositary.

2. Provisional application of this Convention by a State or regional economic integration organisation referred to in paragraph 1 of this Article shall terminate upon entry into force of this Convention for that State or regional economic integration organisation, or upon notification to the Depositary by that State or regional economic integration organisation of its intention to terminate its provisional application of this Convention.

*Article XXXIII***Reservations**

No reservations may be made to this Convention.

*Article XXXIV***Amendments**

1. Any member of the Commission may propose an amendment to the Convention by providing to the Director the text of a proposed amendment at least sixty (60) days in advance of a meeting of the Commission. The Director shall provide a copy of this text to all other members promptly.

2. Amendments to the Convention shall be adopted in accordance with Article IX(2) of this Convention.

3. Amendments to this Convention shall enter into force ninety (90) days after all Parties to the Convention at the time the amendments were approved have deposited their instruments of ratification, acceptance, or approval of such amendments with the Depositary.

4. States or regional economic integration organisations that become Parties to this Convention after the entry into force of amendments to the Convention or its annexes shall be considered to be Party to the Convention as amended.

*Article XXXV***Annexes**

1. The Annexes to this Convention form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Annexes thereto.

2. Any member of the Commission may propose an amendment to an Annex to the Convention by providing to the Director the text of a proposed amendment at least sixty (60) days in advance of a meeting of the Commission. The Director shall provide a copy of this text to all other members promptly.

3. Amendments to the Annexes shall be adopted in accordance with Article IX(2) of this Convention.

4. Unless otherwise agreed, amendments to an Annex shall enter into force for all members of the Commission ninety (90) days after their adoption pursuant to paragraph 3 of this Article.

*Article XXXVI***Withdrawal**

1. Any Party may withdraw at any time after twelve (12) months from the date on which this Convention entered into force with respect to that Party by giving written notice of withdrawal to the Depositary. The Depositary shall inform the other Parties of the withdrawal within thirty (30) days of receipt of such notice. The withdrawal shall become effective six (6) months after receipt of such notice by the Depositary.

2. This article applies, *mutatis mutandis*, to any fishing entity with respect to its commitment under Article XXVIII of this Convention.

*Article XXXVII***Depositary**

The original texts of this Convention shall be deposited with the Government of the United States of America, which shall send certified copies thereof to the signatories and the Parties thereto, and to the Secretary General of the United Nations for registration and publication, pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorised by their respective Governments, have signed this Convention.

DONE at Washington, on this 14th day of November 2003, in English, Spanish and French, all three texts being equally authentic.

ANNEX 1

Guidelines and criteria for the establishment of records of vessels

1. In application of Article XII(2)(k) of this Convention, each Party shall maintain a record of vessels entitled to fly its flag and authorised to fish in the Convention area for fish stocks covered by this Convention, and shall ensure that the following information for all such vessels is entered in that record:
 - (a) name of vessel, registration number, previous names (if known) and port of registry;
 - (b) a photograph of the vessel showing its registration number;
 - (c) name and address of owner or owners;
 - (d) name and address of operator(s) and/or manager(s) if any;
 - (e) previous flag (if known and if any);
 - (f) international radio call sign (if any);
 - (g) where and when built;
 - (h) type of vessel;
 - (i) type of fishing methods;
 - (j) length, beam and moulded depth;
 - (k) gross tonnage;
 - (l) power of main engine or engines;
 - (m) the nature of the authorisation to fish granted by the flag State;
 - (n) freezer type, freezer capacity, and number and capacity of fish holds.
2. The Commission may decide to exempt vessels from the requirements of paragraph 1 of this Annex on the basis of their length or other characteristic.
3. Each Party shall provide to the Director, in accordance with the procedures established by the Commission, the information referred to in paragraph 1 of this Annex and shall promptly notify the Director of any modifications to such information.
4. Each Party shall also promptly inform the Director of:
 - (a) any additions to the record;
 - (b) deletions from the record by reason of:
 - (i) the voluntary relinquishment or non-renewal of the fishing authorisation by the owner or operator of the vessel;
 - (ii) the withdrawal of the fishing authorisation issued to the vessel in accordance with Article XX(2) of this Convention;
 - (iii) the fact that the vessel is no longer entitled to fly its flag;

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

and

(v) any other reason,

specifying which of the reasons listed above are applicable.

5. This Annex applies, *mutatis mutandis*, to fishing entities that are members of the Commission

ANNEX 2

Principles and criteria for the participation of observers at meetings of the Commission

1. The Director shall invite to meetings of the Commission convened pursuant to Article VIII of this Convention inter-governmental organisations whose work is relevant to the implementation of this Convention, as well as non-Parties interested in conservation and sustainable use of the fish stocks covered by this Convention that so request.
 2. Non-governmental organisations (NGOs) referred to in Article XVI(2) of this Convention shall be eligible to participate as observers in all meetings of the Commission and its subsidiary bodies convened pursuant to Article VIII of this Convention, except meetings held in executive session or meetings of Heads of Delegation.
 3. Any NGO desiring to participate as an observer in a meeting of the Commission shall notify the Director of its request to participate at least fifty (50) days in advance of the meeting. The Director shall notify the members of the Commission of the names of such NGOs, together with the information specified in paragraph 6 of this Annex, at least forty-five (45) days prior to the beginning of the meeting.
 4. If a meeting of the Commission is held with less than fifty (50) days' notice, the Director shall have greater flexibility concerning the time frames established in paragraph 3 of this Annex.
 5. An NGO wishing to participate in the meetings of the Commission and its subsidiary bodies may also be allowed to do so on an annual basis, subject to paragraph 7 of this Annex.
 6. Requests for participation referred to in paragraphs 3, 4 and 5 of this Annex shall include the name and office locations of the NGO, and a description of its mission and how its mission and activities are related to the work of the Commission. Such information shall be updated if necessary.
 7. An NGO desiring to participate as an observer may do so unless at least one-third of the members of the Commission object for cause in writing to such participation.
 8. All observers admitted to a meeting of the Commission shall be sent or otherwise provided the same documentation generally available to the members of the Commission, except documentation containing business-confidential data.
 9. Any observer admitted to a meeting of the Commission may:
 - (a) attend meetings, subject to paragraph 2 of this Annex, but not vote;
 - (b) make oral statements during the meetings upon the invitation of the Chairman;
 - (c) distribute documents at the meeting, with the approval of the Chairman;and
 - (d) engage in other activities, as appropriate and as approved by the Chairman.
 10. The Director may require non-Party and NGO observers to pay reasonable fees, and to cover costs attributable to their attendance.
 11. All observers admitted to a meeting of the Commission shall comply with all rules and procedures applicable to other participants in the meeting.
 12. Any NGO that does not comply with the requirements of paragraph 11 of this Annex shall be excluded from further participation in meetings, unless the Commission decides otherwise.
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ANNEX 3

Committee for the Review of Implementation of Measures Adopted by the Commission

The functions of the Committee for the Review of Implementation of Measures Adopted by the Commission established under Article X of this Convention shall be the following:

- (a) review and monitor compliance with conservation and management measures adopted by the Commission, as well as cooperative measures referred to in Article XVIII(9) of this Convention;
 - (b) analyse information by flag or, when information by flag would not cover the relevant case, by vessel, and any other information necessary to carry out its functions;
 - (c) provide the Commission with information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures;
 - (d) recommend to the Commission means of promoting compatibility among the fisheries management measures of the members of the Commission;
 - (e) recommend to the Commission means to promote the effective implementation of Article XVIII(10) of this Convention;
 - (f) in consultation with the Scientific Advisory Committee, recommend to the Commission the priorities and objectives of the programme for data collection and monitoring established in Article VII(1)(l) of this Convention and assess and evaluate the results of that programme;
 - (g) perform such other functions as the Commission may direct.
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ANNEX 4

Scientific Advisory Committee

The functions of the Scientific Advisory Committee established under Article XI of this Convention shall be the following:

- (a) review the plans, proposals and research programmes of the Commission, and provide to the Commission such advice as may be appropriate;
 - (b) review any relevant assessments, analyses, research or work, as well as recommendations prepared for the Commission by its scientific staff prior to consideration of such recommendations by the Commission, and to provide additional information, advice and comments, as warranted, to the Commission on these matters;
 - (c) recommend to the Commission specific issues and items to be addressed by the scientific staff as part of its future work;
 - (d) in consultation with the Committee for the Review of the Implementation of Measures Adopted by the Commission, recommend to the Commission the priorities and objectives of the programme for data collection and monitoring established in Article VII(1)(i) of this Convention and assess and evaluate the results of that programme;
 - (e) assist the Commission and the Director in locating sources of funding to conduct the research to be undertaken under this Convention;
 - (f) develop and promote cooperation between and among the members of the Commission through their research institutions, with the purpose of expanding the knowledge and understanding of the fish stocks covered by this Convention;
 - (g) promote and facilitate, as appropriate, the cooperation of the Commission with other national and international public or private organisations with similar objectives;
 - (h) consider any matter referred to it by the Commission;
 - (i) perform such other functions and tasks as may be requested or assigned to it by the Commission.
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