

Official Journal

of the European Communities

ISSN 0378-6978

L 189

Volume 41

3 July 1998

English edition

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1412/98
of 2 July 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 2375/96 ⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EC) No 150/95 ⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 2 July 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0709 90 70	052	58,5
	999	58,5
0805 30 10	382	61,1
	388	60,7
	524	34,0
	528	65,8
	999	55,4
0808 10 20, 0808 10 50, 0808 10 90	388	70,3
	400	86,1
	404	90,5
	508	96,5
	512	73,9
	524	67,6
	528	66,3
	804	106,0
	999	82,2
	388	107,3
0808 20 50	512	89,0
	528	94,0
	999	96,8
	052	196,2
0809 10 00	064	152,3
	999	174,3
	052	324,4
0809 20 95	060	167,5
	064	164,2
	068	158,8
	400	284,1
	999	219,8
0809 30 10, 0809 30 90	052	151,9
	999	151,9
0809 40 05	624	272,0
	999	272,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1413/98
of 2 July 1998

repealing Regulation (EC) No 727/98 suspending certain concessions provided for in Regulations (EC) No 1898/97 and (EC) No 1899/97 laying down rules of application in the pigmeat sector and in the poultrymeat and egg sectors respectively for the arrangements covered by Council Regulation (EC) No 3066/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round of Multilateral Trade Negotiations ⁽¹⁾, as last amended by Regulation (EC) No 1595/97 ⁽²⁾, and in particular Article 8 thereof,

Whereas Council Regulation (EC) No 703/98 ⁽³⁾ suspending certain concessions provided for in Regulation (EC) No 3066/95, suspends certain concessions regarding certain pigmeat products and certain poultrymeat products; whereas Commission Regulation (EC) No

727/98 ⁽⁴⁾ lays down detailed rules for the application of that suspension;

Whereas Commission Regulation (EC) No 1406/98 ⁽⁵⁾ repeals the measures laid down in Article 1 of Regulation (EC) No 703/98; whereas, as a result, Regulation (EC) No 727/98 should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 727/98 is hereby repealed.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 98, 31. 3. 1998, p. 1.

⁽⁴⁾ OJ L 100, 1. 4. 1998, p. 49.

⁽⁵⁾ OJ L 188, 2. 7. 1998, p. 25.

COMMISSION REGULATION (EC) No 1414/98

of 2 July 1998

amending Regulation (EC) No 1960/95 laying down detailed rules for the transitional application of the system of entry prices for grape juice and musts and Regulation (EC) No 2309/95 establishing transitional measures for the import of grape juice and must from Cyprus

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 2087/97 ⁽²⁾, and in particular Articles 53(3) thereof,

Whereas Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations ⁽³⁾, as last amended by Regulation (EC) No 1161/97 ⁽⁴⁾, and in particular Article 3(1) thereof;

Whereas Commission Regulation (EC) No 1960/95 ⁽⁵⁾, as last amended by Regulation (EC) No 1289/97 ⁽⁶⁾, lays down transitional measures, valid until 30 June 1998 to facilitate the introduction of the arrangements for monitoring import prices for grape juice and must resulting from the agreements concluded during the Uruguay Round of multilateral trade negotiations; whereas that Regulation permits customs authorities to compare import prices with the entry prices given in the common customs tariff in order to determine the customs duties to be collected;

Whereas Commission Regulation (EC) No 2309/95 ⁽⁷⁾, as last amended by Regulation (EC) No 1289/97, lays down transitional measures, valid until 30 June 1998 to facilitate the introduction of the arrangements applicable to imports of grape juice and must from Cyprus resulting from the agreements concluded during the Uruguay Round of multilateral trade negotiations pending a long-term solution within the framework of the agreement creating an association between the European Community and the Republic of Cyprus;

Whereas the period for the adoption of transitional measures was extended until 30 June 1999 by Council Regulation (EC) No 1340/98 ⁽⁸⁾ extending the period for the adoption of the transitional measures required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations; whereas, pending the adoption of definitive measures, the transitional measures provided for in Regulations (EC) No 1960/95 and (EC) No 2309/95 should be extended until 30 June 1999;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1960/95 is hereby amended as follows:

1. in Article 1, '30 June 1998' is replaced by '30 June 1999';
2. in Article 4, '30 June 1998' is replaced by '30 June 1999'.

Article 2

In Article 2 of Regulation (EC) No 2309/95, '30 June 1998' is replaced by '30 June 1999'.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 July 1998.

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 292, 25. 10. 1997, p. 1.

⁽³⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁴⁾ OJ L 169, 27. 6. 1997, p. 1.

⁽⁵⁾ OJ L 189, 10. 8. 1995, p. 16.

⁽⁶⁾ OJ L 175, 3. 7. 1997, p. 25.

⁽⁷⁾ OJ L 233, 30. 9. 1995, p. 54.

⁽⁸⁾ OJ L 184, 27. 6. 1998, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1415/98**of 2 July 1998****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2052/97⁽⁴⁾;

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

ANNEX

to the Commission Regulation of 2 July 1998 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)			(ECU / tonne)		
Product code	Destination ⁽¹⁾	Amount of refund	Product code	Destination ⁽¹⁾	Amount of refund
1001 10 00 9200	—	—	1101 00 11 9000	—	—
1001 10 00 9400	—	—	1101 00 15 9100	01	23,00
1001 90 91 9000	—	—	1101 00 15 9130	01	21,75
1001 90 99 9000	03	14,50	1101 00 15 9150	01	20,00
	02	0	1101 00 15 9170	01	18,50
1002 00 00 9000	03	25,00	1101 00 15 9180	01	17,25
	02	35,00	1101 00 15 9190	—	—
1003 00 10 9000	—	—	1101 00 90 9000	—	—
1003 00 90 9000	03	35,00	1102 10 00 9500	01	47,50
	02	0	1102 10 00 9700	—	—
1004 00 00 9200	—	—	1102 10 00 9900	—	—
1004 00 00 9400	—	—	1103 11 10 9200	—	— ⁽²⁾
1005 10 90 9000	—	—	1103 11 10 9400	—	— ⁽²⁾
1005 90 00 9000	03	26,00	1103 11 10 9900	—	—
	02	0	1103 11 90 9200	01	0 ⁽²⁾
1007 00 90 9000	—	—	1103 11 90 9800	—	—
1008 20 00 9000	—	—			

⁽¹⁾ The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Liechtenstein.

⁽²⁾ No refund is granted when this product contains compressed meal.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 1416/98**of 2 July 1998****fixing the corrective amount applicable to the refund on cereals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (8) thereof,

Whereas Article 13 (8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount may be applied to the refund;

Whereas Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2052/97⁽⁴⁾, allows for the fixing of a corrective amount for the products listed in Article 1 (1) (c) of Regulation (EEC) No 1766/92; whereas that corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination;

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure; whereas it may be altered in the period between fixings;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 961/98⁽⁸⁾;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ L 135, 8. 5. 1998, p. 5.

ANNEX

to the Commission Regulation of 2 July 1998 fixing the corrective amount applicable to the refund on cereals

(ECU/tonne)

Product code	Destination ⁽¹⁾	Current 7	1st period 8	2nd period 9	3rd period 10	4th period 11	5th period 12	6th period 1
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	01	0	-1,50	-3,50	-6,00	-7,50	—	—
1002 00 00 9000	01	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	01	0	0	0	0	0	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	01	0	0	0	0	0	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	01	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	01	0	0	0	-8,00	-8,00	—	—
1101 00 15 9130	01	0	0	0	-8,00	-8,00	—	—
1101 00 15 9150	01	0	0	0	-8,00	-8,00	—	—
1101 00 15 9170	01	0	0	0	-8,00	-8,00	—	—
1101 00 15 9180	01	0	0	0	-8,00	-8,00	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	01	0	0	0	0	0	—	—
1102 10 00 9700	—	—	—	—	—	—	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	—	—	—	—	—	—	—	—
1103 11 10 9400	—	—	—	—	—	—	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	01	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

⁽¹⁾ The destinations are identified as follows:
01 all third countries.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30. 7. 1992, p. 20).

**COMMISSION REGULATION (EC) No 1417/98
of 2 July 1998**

**fixing the maximum export refund on barley in connection with the invitation to
tender issued in Regulation (EC) No 1078/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 923/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2052/97 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of barley to all third countries was opened pursuant to Commission Regulation (EC) No 1078/98 ⁽⁵⁾;

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No

1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 26 June to 2 July 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1078/98, the maximum refund on exportation of barley shall be ECU 44,96 per tonne.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 154, 28. 5. 1998, p. 20.

COMMISSION REGULATION (EC) No 1418/98**of 2 July 1998****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1079/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 923/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2052/97 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries was opened pursuant to Commission Regulation (EC) No 1079/98 ⁽⁵⁾;

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No

1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 26 June to 2 July 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1079/98, the maximum refund on exportation of common wheat shall be ECU 24,48 per tonne.

Article 2

This Regulation shall enter into force on 3 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 154, 28. 5. 1998, p. 24.

COUNCIL DIRECTIVE 98/45/EC**of 24 June 1998****amending Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Directive 91/67/EEC ⁽⁴⁾ laid down the Community rules governing the placing on the market of aquaculture animals for the purpose, in particular, of avoiding the spread of certain serious diseases;

Whereas the diseases set out in list III of Annex A of the said Directive, including gyrodactylosis, can have serious economic repercussions if they break out in a region which was previously disease free;

Whereas consequently it is necessary to prevent the spread of the said diseases by strengthening the provisions currently applied;

Whereas it is necessary to ensure that the placing on the market of fish from a non-approved zone does not prejudice the health status of non-infected farms situated in a non-approved zone; whereas this can be achieved through certification of consignments intended for intra-Community trade;

Whereas it is necessary to adapt certain provisions as regards the frequency of inspections and sampling and testing requirements for fish diseases to international standards,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 91/67/EEC is amended as follows:

1. in Article 13, paragraphs 1 and 2 shall be replaced by the following:

⁽¹⁾ OJ C 242, 21. 8. 1996, p. 9.

⁽²⁾ OJ C 362, 2. 12. 1996, p. 314.

⁽³⁾ OJ C 56, 24. 2. 1997, p. 28.

⁽⁴⁾ OJ L 46, 19. 2. 1991, p. 1. Directive as last amended by Directive 97/79/EC (OJ 24, 30. 1. 1998, p. 31).

‘1. Where a Member State considers that its territory or part of its territory is free from one of the diseases listed in Annex A, column 1, of List III, it shall submit to the Commission appropriate justifications setting out in particular:

- the name of the disease and the previous history of its occurrence in that Member State,
- the results of surveillance testing based on serological, virological, microbiological or pathological findings, or identification of the parasite, as appropriate, and on the fact that the disease is compulsorily notifiable to the competent authorities,
- the period over which the surveillance was carried out,
- the control arrangements for verifying that the area concerned remains free from the disease.

The Commission shall define, in accordance with the procedure laid down in Article 26, general criteria to ensure uniform implementation of this paragraph.

2. The Commission shall examine the justifications communicated by the Member State and, in accordance with the procedure laid down in Article 26, define the zones that are to be regarded as free from, and the species that are susceptible to, the disease in question, and the additional guarantees, general or specific, which may be required for the introduction of aquaculture animals and products into those areas. Live fish, shellfish or crustaceans and if appropriate, their eggs and gametes, introduced into such zones must be accompanied by a movement document, corresponding to a model to be drawn up in accordance with the procedure laid down in Article 26, certifying that they comply with such additional guarantees.’;

2. in Article 16(1), the following sentence shall be added:

‘In addition, the Commission, in accordance with the procedure laid down in Article 26, shall draw up specimens of the certificates which must accompany aquaculture animals, their eggs and gametes in intra-Community trade between non-approved zones as regards the diseases referred to in list II of Annex A, and shall decide on arrangements for extending the “ANIMO” computerized system linking competent authorities to cover trade in the above animals and products.’;

3. in Annex B:

- (a) point I. B., the first sentence of point 2 shall be replaced by the following:

‘2. all farms in the continental zone are placed under the supervision of the official services. Two health inspections per year for two years must have been carried out.’;

- (b) point I. C., point 2 shall be replaced by the following:

‘2. each farm must undergo two health inspections annually in accordance with point B.2, except farms without broodstock which must be inspected once per year. However, samples will be taken by rotation in 50 % of the fish farms in the continental zone each year.’;

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 July 1999. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such 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 domestic law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1998.

For the Council

The President

J. CUNNINGHAM

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 June 1998

on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks

(98/414/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas, for sea fishing, the Community is competent to adopt measures for the conservation and management of fisheries resources and to enter into external undertakings with other countries or international organisations;

Whereas the Community has signed the United Nations Convention on the Law of the Sea, which obliges coastal States and States which engage in fishing on the high seas to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks;

Whereas the Community took part in international negotiations as part of the United Nations Conference on straddling fish stocks and highly migratory fish stocks, which ended with the adoption of the Agreement, and whereas it signed the Agreement on 27 June 1996;

Whereas the aim of the Agreement is to ensure long-term conservation and sustainable use of straddling fish stocks

and highly migratory fish stocks by providing for, *inter alia*, the strengthening of international fisheries organisations and international cooperation regarding these stocks;

Whereas Community fishermen fish these stocks and whereas it is in the Community's interest to play an effective role in the regional fisheries organisations which will be responsible for implementing the Agreement;

Whereas under Articles 1(2), 38 and 47 thereof, the Agreement is open to ratification by the European Community in accordance with Annex IX to the Convention on the Law of the Sea;

Whereas the Community and its Member States have competence in the areas covered by the Agreement; whereas it is therefore necessary for the Community and its Member States simultaneously to become Contracting Parties in order to carry out together the obligations laid down in the Agreement and exercise together the rights it confers in cases of shared competence in order to guarantee uniform application of the Agreement in the context of the common fisheries policy,

HAS DECIDED AS FOLLOWS:

Article 1

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 (fish which are

⁽¹⁾ OJ C 367, 5. 12. 1996, p. 24.

⁽²⁾ OJ C 167, 2. 6. 1997, p. 126.

found both inside and outside exclusive economic zones) and highly migratory fish stocks is hereby ratified on behalf of the European Community.

The text of the Agreement is attached to this Decision as Annex A.

Article 2

1. The President of the Council shall deposit, on behalf of the European Community, the instrument of ratification and the declaration of competence set out in Annex B to this Decision, together with the interpretative declarations set out in Annex C to this Decision, with the Secretary-General of the United Nations, in accordance with Articles 38, 47 and 49 of the Agreement.

2. The instrument of ratification shall be deposited simultaneously with the instruments of ratification of all

the Member States. At the same time the Member States shall confirm the declarations made by the Community on ratification of the Agreement.

Article 3

Where the Community initiates a dispute settlement procedure as provided for by the Agreement, it shall be represented by the Commission. Before taking any action the Commission shall consult the Member States, taking into account binding procedural time limits.

Done at Luxembourg, 8 June 1998.

For the Council

The President

J. CUNNINGHAM

*ANNEX A***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

AGREEMENT

on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks

THE STATES PARTIES TO THIS AGREEMENT,

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

DETERMINED to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

RESOLVED to improve cooperation between States to that end,

CALLING for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

SEEKING to address in particular the problems identified in Chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are over-utilised; noting that there are problems of unregulated fishing, over-capitalisation, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

COMMITTING themselves to responsible fisheries,

CONSCIOUS of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimise the risk of long-term or irreversible effects of fishing operations,

RECOGNISING the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

CONVINCED that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

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

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

- (a) 'Convention' means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) 'conservation and management measures' means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) 'fish' includes molluscs and crustaceans except those belonging to sedentary species as defined in Article 77 of the Convention; and

(d) 'arrangement' means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, *inter alia*, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) 'States Parties' means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies *mutatis mutandis*:

- (i) to any entity referred to in Article 305(1)(c), (d) and (e), of the Convention and
- (ii) subject to Article 47, to any entity referred to as an 'international organisation' in Annex IX, Article 1, of the Convention

which becomes a Party to this Agreement, and to that extent 'States Parties' refers to those entities.

3. This Agreement applies *mutatis mutandis* to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas

under national jurisdiction, except that Articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply *mutatis mutandis* the general principles enumerated in Article 5.

3. States shall give due consideration to the respective capacities of developing States to apply Articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies *mutatis mutandis* in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

- (a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilisation;
- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the

special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

- (c) apply the precautionary approach in accordance with Article 6;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent on the target stocks;
- (e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent on the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

- (f) minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as 'non-target species') and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
 - (g) protect biodiversity in the marine environment;
 - (h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
 - (i) take into account the interests of artisanal and subsistence fishers;
 - (j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;
 - (k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management, and
 - (l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.
- (b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
 - (c) take into account, *inter alia*, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socioeconomic conditions, and
 - (d) develop data-collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. State shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3(b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.
2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.
3. In implementing the precautionary approach, States shall:
 - (a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;
6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.
7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

*Article 7***Compatibility of conservation and management measures**

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

- (a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;
- (b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilisation of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

- (a) take into account the conservation and management measures adopted and applied in accordance with Article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;
- (b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;
- (c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organisation or arrangement;

- (d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;
- (e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned, and
- (f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organisations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organisations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

*Article 8***Cooperation for conservation and management**

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue co-operation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organisations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.
2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of overexploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.
3. Where a subregional or regional fisheries management organisation or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organisation or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organisation or arrangement. States having a real interest in the fisheries concerned may become members of such organisation or participants in such arrangement. The terms of participation in such organisation or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.
4. Only those States which are members of such an organisation or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organisation or arrangement, shall have access to the fishery resources to which those measures apply.
5. Where there is no subregional or regional fisheries management organisation or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organisation or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organisation or arrangement.
6. Any State intending to propose that action be taken by an intergovernmental organisation having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organisation or arrangement, consult through that organisation or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organisation.

*Article 9***Subregional and regional fisheries management organisations and arrangements**

1. In establishing subregional or regional fisheries management organisations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, *inter alia*, on:
 - (a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;
 - (b) the area of application, taking into account Article 7(1), and the characteristics of the subregion or region, including socioeconomic, geographical and environmental factors;
 - (c) the relationship between the work of the new organisation or arrangement and the role, objectives and operations of any relevant existing fisheries management organisations or arrangements, and
 - (d) the mechanisms by which the organisation or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organisation or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organisation or arrangement of such cooperation.

- (l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organisation or arrangement, and
- (m) give due publicity to the conservation and management measures established by the organisation or arrangement.

Article 10

Functions of subregional and regional fisheries management organisations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organisations or arrangements, States shall:

- (a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;
- (b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;
- (c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;
- (d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;
- (e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;
- (f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;
- (g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;
- (h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
- (i) agree on means by which the fishing interests of new members of the organisation or new participants in the arrangement will be accommodated;
- (j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;
- (k) promote the peaceful settlement of disputes in accordance with Part VIII;

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organisation, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, *inter alia*:

- (a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;
- (b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;
- (c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;
- (d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;
- (e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources, and
- (f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheries management organisations and arrangements.

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organisations and arrangements.

2. Representatives from other intergovernmental organisations and representatives from non-governmental organisations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organisations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organisation or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organisations and non-governmental organisations shall have timely access to the records and reports of such organisations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organisations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organisations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and co-operation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

- (a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;
- (b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organisations or arrangements, and
- (c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organisations or arrangements:

- (a) to agree on the specification of data and the format in which they are to be provided to such organisations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks, and

- (b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organisations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organisation conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15

Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16

Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to Article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with Article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to Article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to

paragraph 1, apply Article 7(4)(5) and (6) relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV

NON-MEMBERS AND NON-PARTICIPANTS

Article 17

Non-members of organisations and non-participants in arrangements

1. A State which is not a member of a subregional or regional fisheries management organisation or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organisation or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorise vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organisation or arrangement.

3. States which are members of a subregional or regional fisheries management organisation or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in Article 1(3) which have fishing vessels in the relevant area to cooperate fully with such organisation or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied *de facto* as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organisation or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organisation nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

DUTIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorise the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

- (a) control of such vessels on the high seas by means of fishing licences, authorisations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;
- (b) establishment of regulations:
 - (i) to apply terms and conditions to the licence, authorisation or permit sufficient to fulfil any subregional, regional or global obligations of the flag State,
 - (ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorised to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorisation or permit,

- (iii) to require vessels fishing on the high seas to carry the licence, authorisation or permit on board at all times and to produce it on demand for inspection by a duly authorised person,
 - (iv) to ensure that vessels flying its flag do not conduct unauthorised fishing within areas under the national jurisdiction of other States;
 - (c) establishment of a national record of fishing vessels authorised to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;
 - (d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognisable vessel and gear marking systems, such as the Food and Agriculture Organisation of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;
 - (e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;
 - (f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;
 - (g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, *inter alia*:
 - (i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to Articles 21 and 22, including requirements for such vessels to permit access by duly authorised inspectors from other States,
 - (ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes,
 - (iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;
 - (h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined;
 - (i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimising catches of non-target species.
4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:
- (a) enforce such measures irrespective of where violations occur;
 - (b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organisation or arrangements on the progress and outcome of the investigation;
 - (c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;
 - (d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned;

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, *inter alia*, refusal, withdrawal or suspension of authorisations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organisations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organisation or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.

4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.

5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.

6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unau-

thorised fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorise the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to Article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organisation or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organisation or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organisation or arrangement, a State Party which is a member of such organisation or a participant in such arrangement may, through its duly authorised inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organisation or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organisation or arrangement.

2. States shall establish, through subregional or regional fisheries management organisations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this Article. Such procedures shall be consistent with this Article and the basic procedures set out in Article 22 and shall not discriminate against non-members of the organisation or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organisation or arrangement has not established such procedures, boarding and inspection pursuant

to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this Article and the basic procedures set out in Article 22.

4. Prior to taking action under this Article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organisation or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorised inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this Article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organisation or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

- (a) fulfil, without delay, its obligations under Article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or
- (b) authorise the inspecting State to investigate.

7. Where the flag State authorises the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorise the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under para-

graphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organisation or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimise interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this Article, a serious violation means:

- (a) fishing without a valid licence, authorisation or permit issued by the flag State in accordance with Article 18(3)(a);
- (b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organisation or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organisation or arrangement;
- (c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organisation or arrangement;
- (d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- (e) using prohibited fishing gear;
- (f) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (g) concealing, tampering with or disposing of evidence relating to an investigation;
- (h) multiple violations which together constitute a serious disregard of conservation and management measures; or

- (i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organisation or arrangement.

12. Notwithstanding the other provisions of this Article, the flag State may, at any time, take action to fulfil its obligations under Article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This Article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This Article applies *mutatis mutandis* to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organisation or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organisation or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organisation or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organisation or arrangement, members of such organisation or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this Article

when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this Article.

Article 22

Basic procedures for boarding and inspection pursuant to Article 21

1. The inspecting State shall ensure that its duly authorised inspectors:

- (a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question, pursuant to those measures;
- (b) initiate notice to the flag State at the time of the boarding and inspection;
- (c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;
- (d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;
- (e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and
- (f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorised inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

- (a) accept and facilitate prompt and safe boarding by the inspectors;
- (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
- (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;
- (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors;
- (f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this Article and Article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorisation to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and

global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this Article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 24

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organisation of the United Nations and other specialised agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organisations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

- (a) the vulnerability of developing States which are dependent on the exploitation of living marine

resources, including for meeting the nutritional requirements of their populations or parts thereof;

- (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States;
- (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25

Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organisations:

- (a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;
- (b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to Articles 5 and 11;

(c) to facilitate the participation of developing States in subregional and regional fisheries management organisations and arrangements.

2. Cooperation with developing States for the purposes set out in this Article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint-venture arrangements, and advisory and consultative services.

3. Such assistance shall, *inter alia*, be directed specifically towards:

- (a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;
- (b) stock assessment and scientific research;
- (c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building

at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organisations should assist developing States in establishing new subregional or regional fisheries management organisations or arrangements, or in strengthening existing organisations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28

Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organisations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an *ad hoc* expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply *mutatis mutandis* to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply *mutatis mutandis* to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to Article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to Article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287(1), of the Convention for

the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, Article 2, Annex VII, Article 2, and Annex VIII, Article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to Article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in Article 7(5), and Article 16(2).

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding Article 290(5), of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 31

Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every

Article 32

Limitations on applicability of procedures for the settlement of disputes

Article 297(3), of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognised in this Agreement in a manner which would not constitute an abuse of right.

PART XI

RESPONSIBILITY AND LIABILITY

*Article 35***Responsibility and liability**

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII

REVIEW CONFERENCE

*Article 36***Review conference**

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become Parties to this Agreement as well as those intergovernmental and non-governmental organisations entitled to participate as observers.

2. The Conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII

FINAL PROVISIONS

*Article 37***Signature**

This Agreement shall be open for signature by all States and the other entities referred to in Article 1(2)(b), and shall remain open for signature at United Nations Headquarters for 12 months from the 4 December 1995.

*Article 38***Ratification**

This Agreement is subject to ratification by States and the other entities referred to in Article 1(2)(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 39***Accession**

This Agreement shall remain open for accession by States and the other entities referred to in Article 1(2)(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 40***Entry into force**

1. This Agreement shall enter into force 30 days after the date of deposit of the 30th instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the 30th instrument of ratification or accession, this Agreement shall enter into force on the 30th day following the deposit of its instrument of ratification or accession.

*Article 41***Provisional application**

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate on the entry into force of this agreement for that State or entity or on notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonisation of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45

Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations,

propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this agreement shall be open for signature at United Nations Headquarters by States Parties for 12 months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the 30th day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the 30th day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this Article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

- (a) be considered as a Party to this Agreement as so amended;
- (b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47

Participation by international organisations

1. In cases where an international organisation referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply *mutatis mutandis* to participation by such international organisation in this Agreement, except that the following provisions of that Annex shall not apply:

- (a) Article 2, first sentence;
- (b) Article 3(1).

2. In cases where an international organisation referred to in Annex IX, Article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organisation in this Agreement:

- (a) at the time of signature or accession, such international organisation shall make a declaration stating:
 - (i) that it has competence over all the matters governed by this Agreement;
 - (ii) that, for this reason, its Member States shall not become States Parties, except in respect of their territories for which the international organisation has no responsibility;
 - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an international organisation shall in no case confer any rights under this Agreement on Member States of the international organisation;
- (c) in the event of a conflict between the obligations of an international organisation under this Agreement and its obligations under the agreement establishing

the international organisation or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48

Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of Article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in Article 45 shall apply.

Article 49

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50

Authentic texts

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

In witness whereof, the undersigned Plenipotentiaries, being duly authorised thereto, have signed this Agreement.

Opened for signature at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

*Annex I***STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA***Article 1***General principles**

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardising fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.
2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

*Article 2***Principles of data collection, compilation and exchange**

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

- (a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;
- (b) States should ensure that fishery data are verified through an appropriate system;
- (c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organisation or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;
- (d) States should agree, within the framework of subregional or regional fisheries management organisations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organisations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;
- (e) such organisations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organisation or arrangement; and
- (f) scientists of the flag State and from the relevant subregional or regional fisheries management organisation or arrangement should analyse the data separately or jointly, as appropriate.

*Article 3***Basic fishery data**

1. States shall collect and make available to the relevant subregional or regional fisheries management organisation or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

- (a) time series of catch and effort statistics by fishery and fleet;
 - (b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. (Nominal weight is defined by the Food and Agriculture Organisation of the United Nations as the live-weight equivalent of the landings);
 - (c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
 - (d) effort statistics appropriate to each fishing method;
 - (e) fishing location, date and time fished and other statistics on fishing operations as appropriate.
2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organisation or arrangement information to support stock assessment, including:
- (a) composition of the catch according to length, weight and sex;
 - (b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity;
 - (c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4

Vessel data and information

1. States should collect the following types of vessel-related data for standardising fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:
- (a) vessel identification, flag and port of registry;
 - (b) vessel type;
 - (c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods);
 - (d) fishing gear description (e.g., types, gear specifications and quantity).
2. The flag State will collect the following information:
- (a) navigation and position fixing aids;
 - (b) communication equipment and international radio call sign;
 - (c) crew size.

Article 5

Reporting

A State shall ensure that vessels flying its flag sends to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organisation or arrangement, logbook-data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, fax or satellite transmission or by other means.

Article 6

Data verification

States or, as appropriate, subregional or regional fisheries management organisations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports;
- (d) port sampling.

*Article 7***Data exchange**

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organisations or arrangements. Such organisations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organisation or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organisation of the United Nations. Where a subregional or regional fisheries management organisation or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

*Annex II***GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS**

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.
 2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.
 3. Precautionary reference points should be stock-specific to account, *inter alia*, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.
 4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.
 5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.
 6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.
 7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.
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ANNEX B

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

(Declaration made pursuant to Article 47 of the Agreement)

1. Article 47(1) of the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks provides that in cases where an international organisation referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by the Agreement, Annex IX of the Convention (with the exception of Article 2, first sentence, and Article 3(1)) shall apply *mutatis mutandis* to participation by such international organisation in the Agreement.
2. The current members of the Community are the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.
3. The Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 227 thereof.
4. This declaration is not applicable in the case of the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Agreement by the Member States concerned on behalf of and in the interests of those territories.

I. MATTERS FOR WHICH THE COMMUNITY HAS EXCLUSIVE COMPETENCE

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

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

6. The Community enjoys the regulatory competence granted under international law to the flag State of a vessel to determine the conservation and management measures for marine fisheries resources applicable to vessels flying the flag of Member States and to ensure that Member States adopt provisions allowing for the implementation of the said measures.
7. Nevertheless, measures applicable in respect of masters and other officers of fishing vessels, for example refusal, withdrawal or suspension of authorisations to serve as such, are within the competence of the Member States in accordance with their national legislation.

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

II. MATTERS FOR WHICH BOTH THE COMMUNITY AND ITS MEMBER STATES HAVE COMPETENCE

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

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

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

Interpretative declarations to be deposited by the Community and its Member States on ratification of the Agreement

1. The European Community and its Member States understand that the terms 'geographical particularities', 'specific characteristics of the sub-region or region', 'socioeconomic geographical and environmental factors', 'natural characteristics of that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.
2. The European Community and its Member States understand that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognised by international law.
3. The European Community and its Member States understand that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.
4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in Article 21(3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in Articles 21 and 22 of the Agreement.
5. Regarding the application of Article 21, the European Community and its Member States understand that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in Article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any further authority under the provisions of Article 21 over such a vessel.

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

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

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

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

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

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

COUNCIL DECISION
of 29 June 1998
on the consultation of the European Central Bank by national authorities
regarding draft legislative provisions

(98/415/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 105(4) thereof and Article 4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed thereto,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the European Monetary Institute ⁽³⁾,

Acting in accordance with the procedure provided for in Article 106(6) of the Treaty and in Article 42 of the said Protocol,

- (1) Whereas the European Central Bank (ECB) will be established as soon as its Executive Board is appointed;
- (2) Whereas the Treaty stipulates that national authorities shall consult the ECB regarding any draft legislative provision in its fields of competence; whereas it is for the Council to set out the limits and the conditions of such consultation;
- (3) Whereas this obligation on the authorities of the Member States to consult the ECB must not prejudice the responsibility of these authorities for the matters which are the subject of such provision; whereas Member States must consult the ECB on any draft legislation in its fields of competence in accordance with Article 105(4) of the Treaty; whereas the list of particular areas included in Article 2 of this Decision is not exhaustive; whereas the sixth indent of Article 2 of this Decision is without prejudice to the present assignment of competences for policies relating to the prudential supervision of credit institutions and the stability of the financial system;

(4) Whereas the monetary functions and operations of the European System of Central Banks (ESCB) are defined in the Statute of the ESCB and of the ECB; whereas central banks of participating Member States are an integral part of the ESCB and must act in accordance with the guidelines and instructions of the ECB; whereas, in the third stage of Economic and Monetary Union (EMU), the authorities of non-participating Member States must consult the ECB on draft legislative provisions on the instruments of monetary policy;

(5) Whereas as long as Member States do not participate in the monetary policy of the ESCB, this Decision does not concern decisions taken by authorities of these Member States in the context of the implementation of their monetary policy;

(6) Whereas consultation of the ECB must not unduly lengthen procedures for adopting legislative provisions in the Member States; whereas the time limits within which the ECB must deliver its opinion must, nevertheless, enable it to examine the texts referred to it with the required care; whereas, in duly justified cases of extreme urgency, for which the reasons will be stated, for example on account of market sensitivity, Member States may set a time limit which is less than one month and which reflects the urgency of the situation; whereas in these cases particularly, dialogue between the national authorities and the ECB should enable the interests of both to be taken into account;

(7) Whereas, in accordance with paragraphs 5 and 8 of Protocol No 11 annexed to the Treaty, this Decision shall not apply to the United Kingdom of Great Britain and Northern Ireland if and so long as that Member State does not move to the third stage of EMU;

(8) Whereas, from the date of the establishment of the ECB until the start of the third stage of EMU, national authorities have to consult the ECB, pursuant to Decision 93/717/EC ⁽⁴⁾ and Article 109l(2) of the Treaty,

⁽¹⁾ OJ C 118, 17. 4. 1998, p. 11.

⁽²⁾ OJ C 195, 22. 6. 1998.

⁽³⁾ Opinion delivered on 6 April 1998 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 332, 31. 12. 1993, p. 14.

HAS ADOPTED THIS DECISION:

Article 1

1. For the purpose of this Decision:

‘participating Member State’ shall mean a Member State which has adopted the single currency in accordance with the Treaty;

‘draft legislative provisions’ shall mean any such provisions which, once they become legally binding and of general applicability in the territory of a Member State, lay down rules for an indefinite number of cases and are addressed to an indefinite number of natural or legal persons.

2. Draft legislative provisions shall not include draft provisions the exclusive purpose of which is the transposition of Community directives into the law of Member States.

Article 2

1. The authorities of the Member States shall consult the ECB on any draft legislative provision within its field of competence pursuant to the Treaty and in particular on:

- currency matters,
- means of payment,
- national central banks,
- the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics,
- payment and settlement systems,
- rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets.

2. In addition, the authorities of Member States other than participating Member States shall consult the ECB on any draft legislative provisions on the instruments of monetary policy.

3. The ECB shall, immediately on receipt of any draft legislative provision, notify the consulting authority whether, in its opinion, such provision is within its field of competence.

Article 3

1. The authorities of the Member States preparing a legislative provision may, if they consider it necessary, set the ECB a time limit for the submission of its opinion which may not be less than one month from the date on

which the President of the ECB receives notification to this effect.

2. In case of extreme urgency, the time limit may be reduced. In this case, the consulting authority shall state the reasons for the urgency.

3. The ECB may request in due time an extension of the time limit for up to an additional four weeks. This request shall not be unreasonably declined by the consulting authority.

4. Upon expiry of the time limit, the absence of an opinion shall not prevent further action by the consulting national authority. Should the opinion of the ECB be received after the time limit, Member States shall, nevertheless, ensure that it is brought to the knowledge of the authorities referred to in Article 4.

Article 4

Each Member State shall take the measures necessary to ensure effective compliance with this Decision. To that end, it shall ensure that the ECB is consulted at an appropriate stage enabling the authority initiating the draft legislative provision to take into consideration the ECB’s opinion before taking its decision on the substance and that the opinion received from the ECB is brought to the knowledge of the adopting authority if the latter is an authority other than that which has prepared the legislative provisions concerned.

Article 5

1. This Decision shall apply from 1 January 1999.
2. Decision 93/717/EC shall be repealed with effect from 1 January 1999.

Article 6

This Decision is addressed to the Member States.

Done at Luxembourg, 29 June 1998.

For the Council

The President

R. COOK

Information on the entry into force of the Interim Agreement on trade and trade-related matters with the Kyrgyz Republic

The Interim Agreement on trade and trade-related matters which the Council decided to conclude on 22 July 1997 with the Kyrgyz Republic (see OJ L 235, 26.8.1997 and OJ L 323, 26.11.1997, p. 38) will enter into force on 1 August 1998 as the notifications of completion of the procedures provided for in Article 33 of the Agreement were made by both parties on 19 June 1998.
