

## Vanuatu suggested revisions to Chair's text

### PREAMBLE

Convention on the Conservation and Management of High Seas ~~Living Marine Fishery~~ Resources in the South Pacific Ocean.

The Contracting Parties,

*Committed* to ensuring the long-term conservation and sustainable use of ~~fishery resources~~ living marine resources in the South Pacific Ocean while safeguarding and protecting the integrity of the marine ecosystems in which the resources occur;

*Recalling* the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995 and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and taking into account the Code of Conduct for Responsible Fisheries adopted by the 28<sup>th</sup> Session of the Conference of the Food and Agriculture Organisation of the United Nations on 31 October 1995;

*Recognising* that under the above Agreements States have a duty to co-operate with each other in the conservation and management of living marine resources in the areas of the high seas and, as appropriate, to co-operate to establish sub-regional or regional fisheries organisations or arrangements with a view to taking the measures necessary for the conservation of such resources;

*Taking into consideration* that, in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and general principles of customary international law, coastal States have waters under national jurisdiction within which they exercise their sovereign rights for the purpose of exploring, exploiting, conserving and managing ~~fishery resources~~ living marine resources ~~and conserving living marine resources~~ upon which fishing has an impact;

*Recognising* economic and geographical considerations and the special requirements of developing States, in particular the least-developed among them, and small island developing States, and territories and possessions, and their coastal communities, in relation to the conservation, management and sustainable development of ~~fishery resources~~ living marine resources and equitable benefit from those resources;

*(Further recognising) the needs of small island developing States for specific assistance, including financial, scientific and technological assistance to allow them to participate effectively in the conservation, management and sustainable use of living marine* ~~fishery~~ resources;

*Noting* the need for regional fisheries management organisations and arrangements to undertake performance reviews in order to assess the degree to which they are attaining their respective conservation and management objectives;

*Determined* to cooperate effectively to eliminate illegal, unreported and unregulated fishing and the adverse impact that it has on the state of the world's ~~fishery resources~~ living marine resources and the ecosystems in which they occur;

*Conscious* of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing;

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

*Convinced* that the long-term conservation and sustainable use of [living marine fishery](#) resources in the South Pacific Ocean and the safeguarding of the marine ecosystems in which those resources occur may best be achieved by the conclusion of an international Convention for that purpose;

### ARTICLE 1- DEFINITIONS

For the purposes of this Convention:

- (a) '1982 Convention' means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) '1995 Agreement' means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995;
- (c) 'Area' means the area to which this Convention applies in accordance with article 4;
- (d) 'Code of Conduct' means the Code of Conduct for Responsible Fisheries adopted by the 28<sup>th</sup> session of the Conference of the Food and Agriculture Organisation of the United Nations (FAO) on 31 October 1995;
- (e) 'Contracting Party' means any State or regional economic integration organisation which has consented to be bound by this Convention, and for which the Convention is in force;
- (f) 'ecosystem approach to fisheries management' means an integrated approach under which decisions in relation to the management of fisheries resources are considered in the context of the functioning of the wider marine ecosystems in which they occur with the aim of ensuring long-term conservation and sustainable use of those resources and in so doing safeguard [and protect the integrity of](#) those ecosystems;
- ~~(i)~~ (i) 'fishing' means:
  - (i) the actual or attempted searching for, catching, taking or harvesting of [living marine resources](#);
  - (ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of [living marine resources](#) for any purpose;
  - (iii) the use of any other vessel, vehicle, aircraft or hovercraft, in relation to any activity described in this definition except for emergencies involving the health or safety of crew members or the safety of a vessel;
- (j) 'fishing vessel' means any vessel used or intended for fishing;
- [\(k\) 'fishing support vessel' means any vessel used, or intended for use, in any operation at sea in support of, or in preparation for, any fishing activity, including support ships, carrier vessels and any other vessel engaged in support operations such as bunkering and transshipment;](#)
- ~~(l)~~ (l) 'flag State' means, unless otherwise indicated:
  - (i) a State which entitles vessels to fly its flag; or
  - (ii) a regional economic integration organisation in which a member state entitles vessels to fly the flag of that member State;

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~~(h)~~(m) 'IUU fishing' means activities as referred to in paragraph 3 of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing, and other activities as may be decided by the Commission;

~~(m)~~(n) 'living marine resources' means all living components of the marine ecosystems, including seabirds, but excluding highly migratory species listed in annex 1 of the 1982 Convention and anadromous and catadromous species;

### ARTICLE 2 - OBJECTIVE

The objective of this Convention is, through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long-term conservation and sustainable use of ~~fishery resources~~living marine resources within the Area while and in so doing, safeguarding and protecting the integrity of the marine ecosystems in which those resources occur.

### ARTICLE 3 - CONSERVATION AND MANAGEMENT PRINCIPLES

1. In giving effect to the objective of this Convention and carrying out decision making under the Convention, the Contracting Parties shall apply in particular the following principles:

- (a) conservation and management of living marine resources shall be conducted in a transparent, accountable and inclusive manner, and in accordance with international best practice;
- (b) fishing shall be commensurate with the sustainable and efficient use of living marine resources taking into account the impacts on associated and dependent species (particularly tuna) and the general duty to protect and preserve the marine environment;
- ~~(c)~~ overfishing and excess fishing capacity that exceeds biological or socio-economic reference points shall be prevented or eliminated;
- ~~(d)~~ fishing gear methods and practices which are not consistent with responsible fishing shall be phased out and replaced with more acceptable alternatives;
- ~~(e)~~(d) full and accurate data on fishing and impacts on the marine ecosystems shall be collected, verified, reported and shared in a timely and appropriate manner;
- ~~(d)~~(e) decisions shall be based on the best scientific information available;
- ~~(e)~~(f) the precautionary approach;
- ~~(f)~~(g) an ecosystem approach to fisheries management;
- (h) conservation and management measures established for the area promote economic efficiency within the fishery, taking into account sustainability, environmental, equity and socio-economic concerns;

### ARTICLE 13 - BUDGET

1. The Contracting Parties, at their first meeting, shall consider the adoption of a budget to fund the Commission and its subsidiary bodies, and shall also consider the adoption of financial regulations. Decisions on the budget and financial regulations shall be taken by consensus.

2. Each Contracting Party shall contribute to the budget. The contribution by each Contracting Party shall be according to a combination of an equal basic fee, a fee based on the level of each country's economic development and a fee based on its total catch of ~~fishery~~

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~~resources~~ living marine resources. The Commission shall adopt and may amend the proportion in which these contributions are applied taking into account as appropriate the economic status of each Contracting Party and any territories it may have adjoining the Area. The proportion of contributions shall be set out in the financial regulations of the Commission.

### ARTICLE 17 - CONSERVATION AND MANAGEMENT MEASURES

1. The Commission shall adopt conservation and management measures for ~~fishery resources~~ living marine resources, associated or dependent species and the impacts of fishing on the marine ecosystem. In adopting such measures the Commission shall apply the precautionary approach and an ecosystem approach to fisheries management, taking full account of advice from the Scientific Committee. The conservation and management measures adopted by the Commission shall include measures to:

- (a) ensure the long-term sustainability of ~~fishery resources~~ living marine resources and to promote the objective of their responsible utilisation, taking in to account *inter alia*: the biological unity and other biological characteristics of the fishery; uncertainties relating to the size and productivity of the fishery; biological reference points; the condition of the fishery in relation to such biological reference points; levels and distributions of fishing mortality; the impact of fishing on non-target and associated or dependent species; the impact of fishing on the marine ecosystems in which these resources occur; and existing and predicted oceanic and environmental conditions and socio-economic considerations;
- (b) prevent or eliminate over-fishing and excess fishing capacity to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of ~~fishery resources~~ living marine resources ~~or exceed economically efficient levels~~;
- (c) maintain or restore populations of non-target and associated and dependent species to above levels at which their reproduction may become seriously threatened;
- (d) determine specific biological and socio-economic reference points above which the sustainability of a fishery is ensured, consistent with article 6 of the 1995 Agreement, and to ensure that when such specific biological and socio-economic reference points are approached, further measures are taken to ensure they are not be exceeded;
- (e) ensure that in the event specific biological and socio-economic reference points are exceeded, Contracting Parties, without delay, take action to restore the fishery within a reasonable period of time;

### ARTICLE 18 - ESTABLISHMENT OF TOTAL ALLOWABLE CATCH OR TOTAL ALLOWABLE FISHING EFFORT

1. In addition to the measures adopted under article 17, the Commission shall determine a total allowable catch or total allowable fishing effort, including any catch or effort for scientific research, for all fisheries within three years of the entry into force of this Convention. In determining the total allowable catch or total allowable fishing effort for each fishery, the Commission shall apply the precautionary approach and an ecosystem approach and shall take into account all of the following factors:

- (a) the objective and the conservation and management principles of this Convention;
- (b) the conservation and management measures adopted by the Commission;

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- (c) the advice and recommendations of the Scientific Committee and Compliance Committee;
- (d) the status, [economic condition](#) and stage of development of the fishery;

#### ARTICLE 19 – PARTICIPATION IN FISHERIES

1. [Participation in each fishery shall be maintained at levels in accordance with the interim measure until the Commission has determined biological and socio-economic reference points for each fishery.](#)

~~1.2.~~ When taking decisions regarding participation in fisheries, including the allocation of the total allowable catch or total allowable fishing effort, the Commission shall take into account the following:

- (a) compliance with the conservation and management measures under this Convention, and with those of other regional fisheries management organisations;

[\(b\) compliance with interim measures;](#)

~~(b)(c)~~ demonstrated capacity and willingness to exercise effective flag State control over flag vessels;

~~(e)(d)~~ contribution to the conservation and management of ~~fishery resources~~[living marine resources](#) in the Area, including the provision of accurate data, the conduct of scientific research and steps taken to establish cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

~~(d)(e)~~ past and present fishing patterns, practices and catches in the Area;

~~(e)(f)~~ the interests of developing States and of territories and possessions in whose areas of national jurisdiction the same ~~fishery resources~~[living marine resources](#) also occur;

~~(f)(g)~~ the needs of coastal States and of territories and possessions whose economies are overwhelmingly dependent on the exploitation of ~~fishery resources~~[living marine resources](#);

~~(g)(h)~~ the needs of coastal fishing communities which are dependent mainly on fishing for the ~~fishery resources~~[living marine resources](#);

~~(h)(i)~~ contribution to the responsible development of new fisheries.

3. [When taking decisions regarding participation in fisheries, including the allocation of the total allowable catch or total allowable fishing effort, the Commission shall not consider catch histories as a relevant factor, except:](#)

[\(a\) for pelagic fisheries catches taken or effort used prior to 31 December 2007 for those States who can demonstrate they were actively fishing in the Area in 2007 for the pelagic fishery under consideration in accordance with the interim measure;](#)

~~(a)(b)~~ [for pelagic fisheries catches taken or effort used prior to 31 December 2010 for those States who can demonstrate that they were actively fishing in 2006 or earlier for the pelagic fishery under consideration, and can demonstrate that they were not fishing in 2007 for the pelagic fishery under consideration, in accordance with the interim measure;](#)

[\(c\) for bottom fisheries catches taken or effort used in the Area in the period 1 January 2002 to 31 December 2006.](#)

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**ARTICLE 23 - FLAG STATE DUTIES**

1. Each flag State Contracting Party shall take such measures as may be necessary to ensure that:

(d) fishing vessels flying its flag:

(i) land in port living marine resources caught in the Area only when systems are in place at the landing for the inspection of documents, fishing gear and catch on board fishing vessels that enables verification that the fish on board have been caught in a manner consistent with the conservation and management measures and relevant procedures adopted by the Commission;

~~(i)(ii)~~ tranship ~~fishery resources~~living marine resources caught in the Area only with support vessels that are on the Commission's Record of Fishing Support Vessels ~~tranship at sea only when there is full observer coverage; all of the transhipped fish or fish products derived from fishery resources living marine resources will be landed at a Contracting Party port;~~ and the transshipment is done in accordance with relevant procedures adopted by the Commission.

~~(ii)(iii)~~ carry an observer if a fishing trip involves fishing in waters within a national jurisdiction and in the Area.

**ARTICLE 26 - MONITORING, COMPLIANCE AND ENFORCEMENT**

1. The Commission shall establish appropriate cooperative procedures for effective monitoring, control and surveillance of fishing and to ensure compliance with this Convention and the conservation and management measures adopted by the Commission.

2. The Commission shall adopt procedures for, *inter alia*:

(a) the establishment and maintenance of a Commission record of vessels authorised to fish in the Area, the marking of vessels and fishing gear, the recording of fishing activities;

(b) the establishment and maintenance of a Commission Record of Fishing Support Vessels that are authorised to support fishing in the Area;