

Russian Federation proposal to the Revision 5 of the Convention text.

Article 1

DEFINITIONS

- (h) 'fishing vessel' means any vessel used or intended for fishing, including ~~fish processing vessels, support ships, carrier vessels and any other vessel directly engaged in fishing operations~~ motherships;
- (t) 'new fisheries' means target fisheries of such object which has never been fished in any part of Convention area previously.

Article 4

COMPATIBILITY OF CONSERVATION AND MANAGEMENT MEASURES

1. The Contracting Parties recognise the need to ensure compatibility of conservation and management measures established for ~~fishery resources~~ **stocks** that are identified as straddling areas under the national jurisdiction of a coastal State Contracting Party and the adjacent high seas of the Convention Area and acknowledge their duty to cooperate to this end.
2. Conservation and management measures established **for the straddling stocks** for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of straddling fishery resources in their entirety. In developing compatible conservation and management measures for straddling ~~fishery resources~~ **stocks** Contracting Parties shall:

Article 6 THE ORGANISATION

~~2 (d) an Eastern Sub regional Management Committee;~~

~~—(e) a Western Sub regional Management Committee;~~

Article 9 SUBSIDIARY BODIES

1. The Commission may establish other subsidiary bodies, additional to the Scientific Committee, the Compliance Committee, ~~the Eastern Sub regional Management Committee and the Western Sub regional Management Committee~~ as may be required. Such additional subsidiary bodies may be established on a permanent or temporary basis taking into account cost implications.

Article 12

~~EASTERN AND WESTERN SUB-REGIONAL MANAGEMENT COMMITTEES.~~

Article 15 DECISION-MAKING

- 2 (b) decisions on questions of substance shall be taken by a ~~two-thirds~~ **three-fourth** majority of the Contracting Parties present and casting affirmative or negative votes.

Article 16

IMPLEMENTATION OF COMMISSION DECISIONS

2. (a) Any Contracting Party may present to the Executive Secretary an objection to a decision within 60 days of the date of notification (the objection period). In that event the decision shall not become binding on that Contracting Party to the extent of the objection, **except in accordance with paragraph 3 and Annex II. In period of functioning appropriate Review Panel the decision shall not become binding on objecting Contracting Party.**

~~(c) The only admissible (приемлемые) grounds for an objection are that the decision unjustifiably discriminates in form or in fact against the Contracting Party, or is inconsistent with the provisions of this convention, the 1982 Convention or the 1995 Agreement.~~

Article 19

CONSERVATION AND MANAGEMENT MEASURES

- 5 (b) Measures taken on an emergency basis shall be based on the best scientific evidence available. Such measures shall be temporary and must be reconsidered at the next meeting of the Commission following their adoption. The measures shall become binding on the Contracting Parties in accordance with Article 16 paragraph 1. ~~They shall not be open to the objection procedure in Article 16 paragraph 2 but may be the subject of dispute settlement procedures under Article 35.~~

Article 20

PARTICIPATION IN FISHING FOR FISHERY RESOURCES

1. When taking decisions regarding participation in fishing for any fishery resource, including the allocation of a total allowable catch or total allowable fishing effort, the Commission shall take into account the status of the fishery resources and the existing level of fishing effort for that resource and the following criteria:

- (a) historic catch and past and present fishing patterns and practices, ~~including GT of the Contracting Parties vessels deployed during the interim measures~~, either throughout the relevant range of a fishery resource when the Commission establishes a total allowable catch or total allowable fishing effort for that resource under Article 19(4)(a)(ii) or (iii), or in the Convention Area when the Commission establishes a total allowable catch or total allowable fishing effort in accordance with Article 19(4)(a)(i);

~~(a bis) the participation by a Coastal State in the Convention Area when the Commission establishes a total allowable catch or total allowable fishing effort for that resource under Article 19(4)(a)(ii) or (iii) must not exceed a level of participation equivalent to the proportion of that State's historic total catch taken in the Convention Area, unless otherwise agreed by the Commission;~~

- (d) contribution to the conservation and management of fishery resources, including the provision of accurate data ~~including interim period~~ and effective monitoring, control, surveillance and enforcement;

~~3. Decisions by the Commission on participation of the Contracting Parties in fishing for a fish stocks, including the allocation of a total allowable catch or total allowable fishing effort, shall be taken by consensus.~~

Article 21

DEVELOPMENT OF NEW FISHERIES RESOURCES

~~A new fisheries which never has been fished for in the Convention area before A fishery resource that is not subject to fishing at the time of the entry into force of this Convention shall be subject to fishing only when the Commission has adopted cautious preliminary conservation and management measures in respect of that fisheries resource, and any associated or dependent species, and appropriate measures to protect the marine ecosystem in which that fishery resource occurs from adverse impacts of fishing activities.~~

Article 28 OBSERVER PROGRAMME

~~4. In developing the observer programme, the Commission shall take into account advice from the Scientific Committee and Compliance Committee and shall ensure that the programme is operated in accordance with standards, rules and procedures developed by the Commission. These standards, rules and procedures shall include *inter alia*:~~

- ~~(a) — arrangements for the placing of observers by a Contracting Party on vessels flying the flag of another Contracting Party with the consent of that Party;~~
- ~~(b) — levels of coverage appropriate for different fishery resources to monitor and verify catch, effort, catch composition and other details of fishing operations;~~
- ~~(c) — requirements for collection, validation and reporting of scientific information;~~
- ~~(d) — requirements for reporting of findings from the monitoring of the implementation of the provisions of this convention and the conservation and management measures adopted by the Commission;~~
- ~~(e) — requirements to ensure the safety of observers;~~
- ~~(f) requirements for training of observers; and~~
- ~~— requirements in relation to electronic monitoring mechanisms.~~

Article 39

ENTRY INTO FORCE

This Convention shall enter into force 30 days after the date of receipt by the Depositary of the eighth instrument of ratification, accession, acceptance or approval, at least ~~two~~ **three** of which have been deposited by coastal States adjacent to the Convention Area and ~~two~~ **three** by States that are not coastal States adjacent to the Convention Area and whose fishing vessels are currently fishing in that area or have fished in that area in the past ~~two years~~.

Article 42

TERMINATION

This Convention shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below three of coastal States adjacent to the Area or drops below three distant-water fishing States.

Annex I

~~PARTS OF THE CONVENTION AREA FOR WHICH THE EASTERN AND WESTERN SUB-REGIONAL MANAGEMENT COMMITTEES HAVE RESPONSIBILITIES~~

Annex II

REVIEW PANEL

~~7. Unless the Review Panel decides otherwise because of the particular circumstances of the case, the expenses of the Review Panel, including the remuneration of its members, shall be borne as follows:~~

- ~~(a) — 70 per cent shall be borne by the objecting Contracting Party, or if there is more than one objecting Contracting Party, divided equally amongst them; and~~
- ~~(b) 30 per cent shall be borne by the Commission from its annual budget.~~

8. The findings and recommendations of the Review Panel shall be adopted by a $\frac{3}{4}$ majority of its members. Any member of the Panel may attach a separate or dissenting opinion. Any decisions on the procedure of the Review Panel shall also be taken by a $\frac{3}{4}$ majority of its members.

Annex III

PROCEDURES FOR THE ESTABLISHMENT AND IMPLEMENTATION OF A TOTAL ALLOWABLE CATCH OR TOTAL ALLOWABLE FISHING EFFORT FOR A STRADDLING FISHERY RESOURCE STOCKS WHEN APPLIED THROUGHOUT ITS RANGE

2. In accordance with Article 10, the Scientific Committee shall assess the status of the straddling fishery resource stocks throughout its range and provide advice to the Commission and the relevant Sub-regional Management Committee on an appropriate total allowable catch or total allowable fishing effort for the resource throughout its range. Such advice should include where possible an analysis of the probability of achieving the objectives of any management strategy or plan adopted by the Commission at different levels of total allowable catch or total allowable fishing effort.

~~3. In accordance with Article 12, and on the basis of the advice of the Scientific Committee and any relevant advice of the Compliance Committee, the relevant Sub-regional Management Committee shall make recommendations to the Commission on a total allowable catch or total allowable fishing effort for the fishery resource throughout its range and appropriate measures to ensure the total allowable catch or total allowable fishing effort is not exceeded.~~

4. In accordance with Articles 15 and 19, the Commission, on the basis of the recommendations and advice from the Scientific Committee and the relevant Sub-regional Management Committee and any relevant advice of the Compliance Committee, shall establish a total allowable catch or total allowable fishing effort for the fishery resource stocks throughout its range and adopt appropriate measures to ensure that the total allowable catch or total allowable fishing effort is not exceeded.

~~5. In relation to the conservation and management of *Trachurus murphyi* (jack mackerel), the Commission shall, in accordance with Article 19, and as appropriate, give primary consideration to establishing a total allowable catch, without prejudice to any other conservation and management measures which it considers appropriate to adopt to ensure the conservation and sustainable use of this fishery resource.~~