

PROTOCOL II

The Parties to this Protocol,

NOTING the provisions of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific ("the Convention")

HAVE AGREED as follows:

Article 1

APPLICATION OF THE CONVENTION

Nothing in this Protocol shall affect or prejudice the views or positions of any Party with respect to the law of the sea.

Article 2

MEASURES REGARDING NATIONALS AND VESSELS

Each Party undertakes to prohibit its nationals and fishing vessels documented under its laws from using driftnets within the Convention Area.

Article 3

MEASURES AGAINST DRIFTNET FISHING ACTIVITIES

(1) Each Party undertakes:

- (a) not to assist or encourage the use of driftnets within the Convention Area; and
- (b) to take measures consistent with international law to restrict driftnet fishing activities, including but not limited to:
 - (i) prohibiting the use of driftnets within areas under its fisheries jurisdiction; and
 - (ii) prohibiting the transshipment of driftnet catches within areas under its jurisdiction.

(2) Each Party may also take measures consistent with international law to:

- (a) prohibit the landing of driftnet catches within its territory;
- (b) prohibit the processing of driftnet catches in facilities under its jurisdiction;
- (c) prohibit the importation of any fish or fish product, whether processed or not, which was caught using a driftnet;
- (d) restrict port access and port servicing facilities for driftnet fishing vessels; and
- (e) prohibit the possession of driftnets on board any fishing vessel within areas under its fisheries jurisdiction.

(3) Nothing in this Protocol shall prevent a Party from taking measures consistent with international law against driftnet fishing activities which are stricter than those required by the Protocol.

Article 4

TRANSMISSION OF INFORMATION

Each Party shall expeditiously convey to the FFA:

- (a) information on the measures adopted by it pursuant to the implementation of this Protocol; and
- (b) information on, and scientific analyses on the effects of, driftnet fishing activities relevant to the Convention Area.

Article 5

ENFORCEMENT

Each Party shall take appropriate measures to ensure the application of the provisions of this Protocol.

Article 6

WITHDRAWAL

At any time after three years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notice to the Depositary. The Depositary shall immediately inform all Parties to the Convention or its Protocols of receipt of a withdrawal notice. Withdrawal shall take effect one year after receipt of such notice by the Depositary.

Article 7

FINAL CLAUSES

(1) This Protocol shall be open for signature by any State the waters under the jurisdiction of which are contiguous with or adjacent to the Convention Area or by any other State invited to sign by the Parties to the Convention.

(2) This Protocol shall be subject to ratification. Instruments of ratification shall be deposited with the Government of New Zealand, which shall be the Depositary.

(3) This Protocol shall enter into force for each State on the date of deposit of its instruments of ratification with the Depositary.

(4) This Protocol shall not be subject to reservations.

DONE at Noumea this twentieth day of October 1990.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Protocol.