

**FINAL ACT OF THE
MEETING ON A CONVENTION TO PROHIBIT DRIFTNET FISHING
IN THE SOUTH PACIFIC**

Representatives from the Territory of American Samoa, Australia, the Cook Islands, Federated States of Micronesia, Fiji, France (French Polynesia, New Caledonia, and Wallis and Futuna), Republic of Kiribati, Republic of the Marshall Islands, Republic of Nauru, New Zealand, Niue, Republic of Palau, Pitcairn, Solomon Islands, Papua New Guinea, Tokelau, Kingdom of Tonga, Tuvalu, Republic of Vanuatu, and Western Samoa, and the Forum Fisheries Agency, South Pacific Commission, Forum Secretariat and South Pacific Regional Environment Programme/United Nations Environment Programme represented by observer delegations, accepted the invitation extended by the Government of New Zealand to participate in a Meeting on a Convention to Prohibit Driftnet Fishing in the South Pacific. The Representatives met in Wellington from 21 to 24 November 1989 under the Chairmanship of Mr Christopher Beeby, leader of the delegation of New Zealand.

As a result of its deliberations the Meeting adopted the "Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific", the text of which is annexed to this Final Act, and agreed that it should be opened for signature on 29 November 1989.

The Meeting also endorsed Protocols and an associated instrument for discussion with those States and entities or organisations eligible to sign. The texts of those instruments are annexed to this Final Act. The Meeting agreed that, upon completion of these discussions, the Protocols and associated instrument would be further considered for adoption by the participants in the Meeting.

The Meeting agreed that nothing in Article 8 of the Convention would prejudice the position of any Party on the content or scope of any conservation and management measures that might be adopted for South Pacific albacore tuna.

The Meeting further agreed that the words "adjacent to the Convention Area" in Article 7 of Protocol II relate to countries on or within the Pacific rim.

IN WITNESS WHEREOF the Representatives have signed this Final Act.

DONE at Wellington, this twenty-fourth day of November 1989, in a single original copy in the English and French languages to be deposited in the archives of the Government of New Zealand, which will transmit a certified copy thereof to all the Representatives participating in the Meeting.

CONVENTION FOR THE PROHIBITION OF FISHING

WITH LONG DRIFTNETS IN THE SOUTH PACIFIC

The Parties to this Convention,

RECOGNISING the importance of marine living resources to the people of the South Pacific region;

PROFOUNDLY CONCERNED at the damage now being done by pelagic driftnet fishing to the albacore tuna resource and to the environment and economy of the South Pacific region;

CONCERNED ALSO for the navigational threat posed by driftnet fishing;

NOTING that the increasing fishing capacity induced by large scale driftnet fishing threatens the fish stocks in the South Pacific;

MINDFUL OF the relevant rules of international law, including the provisions of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982, in particular Parts V, VII and XVI;

RECALLING the Declaration of the South Pacific Forum at Tarawa, 11 July 1989 that a Convention should be adopted to ban the use of driftnets in the South Pacific region;

RECALLING ALSO the Resolution of the 29th South Pacific Conference at Guam, which called for an immediate ban on the practice of driftnet fishing in the South Pacific Commission region;

HAVE AGREED as follows:

Article 1

DEFINITIONS

For the purposes of this Convention and its Protocols:

(a) the "Convention Area",

(i) subject to sub-paragraph (ii) of this paragraph, shall be the area lying within 10 degrees North latitude and 50 degrees South latitude and 130 degrees East longitude and 120 degrees West longitude, and shall also include all waters under the fisheries jurisdiction of any Party to this Convention.

(ii) In the case of a State or Territory which is Party to the Convention by virtue of paragraph 1(b) or 1(c) of Article 10, it shall include only waters under the fisheries jurisdiction of that Party, adjacent to the Territory referred to in paragraph 1(b) or 1(c) of Article 10;

(b) "driftnet" means a gillnet or other net or a combination of nets which is more than 2.5 kilometres in length the purpose of which is to enclose, entrap or entangle fish by drifting on the surface of or in the water;

(c) "driftnet fishing activities" means:

(i) catching, taking or harvesting fish with the use of a driftnet;

(ii) attempting to catch, take or harvest fish with the use of a driftnet;

(iii) engaging in any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish with the use of a driftnet, including searching for and locating fish to be taken by that method;

(iv) any operations at sea in support of, or in preparation for any activity described in this paragraph, including operations of placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(v) aircraft use, relating to the activities described in this paragraph, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel; or

(vi) transporting, transshipping and processing any driftnet catch, and cooperation in the provision of food, fuel and other supplies for vessels equipped for or engaged in driftnet fishing;

(d) the "FFA" means the South Pacific Forum Fisheries Agency; and

(e) "fishing vessel" means any vessel or boat equipped for or engaged in searching for, catching, processing or transporting fish or other marine organisms.

Article 2

MEASURES REGARDING NATIONALS AND VESSELS

Each Party undertakes to prohibit its nationals and vessels documented under its laws from engaging in driftnet fishing activities 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 within the Convention Area, 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 Convention shall prevent a Party from taking measures against driftnet fishing activities which are stricter than those required by the Convention.

Article 4

ENFORCEMENT

(1) Each Party shall take appropriate measures to ensure the application of the provisions of this Convention.

(2) The Parties undertake to collaborate to facilitate surveillance and enforcement of measures taken by Parties pursuant to this Convention.

(3) The Parties undertake to take measures leading to the withdrawal of good standing on the Regional Register of Foreign Fishing Vessels maintained by the FFA against any vessel engaging in driftnet fishing activities.

Article 6

INSTITUTIONAL ARRANGEMENTS

(1) The FFA shall be responsible for carrying out the following functions:

- (a) the collection, preparation and dissemination of information on driftnet fishing activities within the Convention Area;
- (b) the facilitation of scientific analyses on the effects of driftnet fishing activities within the Convention Area, including consultations with appropriate regional and international organisations; and
- (c) the preparation and transmission to the Parties of an annual report on any driftnet fishing activities within the Convention Area and the measures taken to implement this Convention or its Protocols.

Article 5

CONSULTATION WITH NON-PARTIES

(1) The Parties shall seek to consult with any State which is eligible to become a Party to this Convention on any matter relating to driftnet fishing activities which appear to affect adversely the conservation of marine living resources within the Convention Area or the implementation of the Convention or its Protocols.

(2) The Parties shall seek to reach agreement with any State referred to in paragraph 1 of this Article, concerning the prohibitions established pursuant to Articles 2 and 3.

(2) Each Party shall expeditiously convey to the FFA:

(a) information on the measures adopted by it pursuant to the implementation of the Convention; and

(b) information on, and scientific analyses on the effects of, driftnet fishing activities relevant to the Convention Area.

(3) All Parties, including States or Territories not members of the FFA and the FFA shall cooperate to promote the effective implementation of this Article.

Article 7

REVIEW AND CONSULTATION AMONG PARTIES

(1) Without prejudice to the conduct of consultations among Parties by other means, the FFA, at the request of three Parties, shall convene meetings of the Parties to review the implementation of this Convention and its Protocols.

(2) Parties to the Protocols shall be invited to any such meeting and to participate in a manner to be determined by the Parties to the Convention.

Article 8

CONSERVATION AND MANAGEMENT MEASURES

Parties to this Convention shall cooperate with each other and with appropriate distant water fishing nations and other entities or organisations in the development of conservation and management measures for South Pacific albacore tuna within the Convention Area.

Article 9

PROTOCOLS

This Convention may be supplemented by Protocols or associated instruments to further its objectives.

Article 10

SIGNATURE, RATIFICATION AND ACCESSION

(1) This Convention shall be open for signature by:

(a) any member of the FFA; and

(b) any State in respect of any Territory situated within the Convention Area for which it is internationally responsible; or

(c) any Territory situated within the Convention Area which has been authorised to sign the Convention and to assume rights and obligations under it by the Government of the State which is internationally responsible for it.

(2) This Convention is subject to ratification by members of the FFA and the other States and Territories referred to in paragraph 1 of this Article. The instruments of ratification shall be deposited with the Government of New Zealand which shall be the Depository.

(3) This Convention shall remain open for accession by the members of the FFA and the other States and Territories referred to in paragraph 1 of this Article. The instruments of accession shall be deposited with the Depository.

Article 11

RESERVATIONS

This Convention shall not be subject to reservations.

Article 12

AMENDMENTS

(1) Any Party may propose amendments to this Convention.

(2) Amendments shall be adopted by consensus among the Parties.

(3) Any amendments adopted shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.

(4) An amendment shall enter into force thirty days after receipt by the Depositary of instruments of ratification, approval or acceptance from all Parties.

Article 13

ENTRY INTO FORCE

(1) This Convention shall enter into force on the date of deposit of the fourth instrument of ratification or accession.

(2) For any member of the FFA or a State or Territory which ratifies or accedes to this Convention after the date of deposit of the fourth instrument of ratification or accession, the Convention shall enter into force on the date of deposit of its instrument of ratification or accession.

Article 14

CERTIFICATION AND REGISTRATION

(1) The original of this Convention and its Protocols shall be deposited with the Depositary, which shall transmit certified copies to all States and Territories eligible to become Party to the Convention and to all States eligible to become Party to a Protocol to the Convention.

(2) The Depositary shall register this Convention and its Protocols in accordance with Article 102 of the Charter of the United Nations.

DONE at Wellington this twenty-fourth day of November 1989 in the English and French languages, each text being equally authentic.

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