

AGREEMENT FOR THE ESTABLISHMENT OF THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

As amended by the General Fisheries Council for the Mediterranean at its First Special Session (May 1963) and approved by the FAO Conference at its Twelfth Session (December 1963), as also amended by the General Fisheries Council for the Mediterranean at its Thirteenth Session (July 1976) and approved by the FAO Council at its Seventieth Session (December 1976), and as further amended by the General Fisheries Council for the Mediterranean at its Twenty-second Session (October 1997) and approved by the FAO Council at its Hundred and Thirteenth Session (November 1997) **to the extent limited to those amendments which did not create new obligations.**

PREAMBLE

The Contracting Parties

Taking account of the relevant provisions of the United Nations Convention on the Law of the Sea which entered into force on 16 November, 1994 (hereafter referred to as the United Nations Convention) and which requires all members of the international community to cooperate in the conservation and management of the living marine resources,

Noting also the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development, 1992 and the Code of Conduct for Responsible Fisheries adopted by the FAO Conference in 1995,

Noting also that other international instruments have been negotiated concerning the conservation and management of certain fish stocks,

Having a mutual interest in the development and proper utilization of the living marine resources in the Mediterranean and the Black Sea and connecting waters (hereafter referred to as the Region) and desiring to further the attainment of their objectives through

international cooperation which would be furthered by the establishment of a General Fisheries Commission for the Mediterranean,

Recognizing the importance of fisheries conservation and management in the Region and of promoting cooperation to that effect,

Agree as follows:

ARTICLE I

The Commission

1. The Contracting Parties hereby establish within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization") a Commission to be known as the General Fisheries Commission for the Mediterranean (hereinafter referred to as "the Commission"), for the purpose of exercising the functions and discharging the responsibilities set forth in Article III below.

2. The Members of the Commission shall be such Members and Associate Members of the Organization and such non-member States as are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency, that are:

- (i) coastal States or Associate Members situated wholly or partly within the Region;
- (ii) States or Associate Members whose vessels engage in fishing in the Region for stocks covered by this Agreement; or
- (iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

and which accept this Agreement in accordance with the provisions of Article XI below, it being understood that these provisions shall not affect the membership status in the Commission of such States that are not members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as may have become parties to this Agreement prior to 22 May 1963. As regards Associate Members, this Agreement shall, in accordance with the provisions of Article XIV.5 of the Constitution and Rule XXI.3 of the General Rules of the Organization, be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.

ARTICLE II

Organization

1. Each Member shall be represented at sessions of the Commission by one delegate, who may be accompanied by an alternate and by experts and advisers. Participation in meetings of the Commission by alternates, experts, and advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his absence.
2. Subject to paragraph 3, each Member shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except as otherwise provided by this Agreement. A majority of the total membership of the Commission shall constitute a quorum.
3. A Regional Economic Integration Organization that is a Member of the Commission shall be entitled to exercise in any meeting of the Commission or of any subsidiary body of the Commission a number of votes equal to the number of its Member States that are entitled to vote in such meeting.
4. A Regional Economic Integration Organization that is a Member of the Commission shall exercise its membership rights on an alternative basis with its member States that are Members of the Commission in the areas of their respective competence. Whenever a Regional Economic Integration Organization that is a Member of the Commission exercises its right to vote, its member States shall not exercise theirs, and conversely.
5. Any Member of the Commission may request a Regional Economic Integration Organization that is a Member of the Commission or its member States that are Members of the Commission to provide information as to which, as between the Member Organization and its member States, has competence in respect of any specific question. The Regional Economic Integration Organization or the member States concerned shall provide this information on such request.
6. Before any meeting of the Commission or a subsidiary body of the Commission, a Regional Economic Integration Organization that is a Member of the Commission, or its member States that are Members of the Commission shall indicate which, as between the Regional Economic Integration Organization and its Member States, has competence in respect to any specific question to be considered in the meeting and which, as between the Regional Economic Integration Organization and its member States, shall exercise the right to vote in respect of each particular agenda item. Nothing in this paragraph shall prevent a Regional Economic Integration Organization that is a Member of the Commission or its member States that are Members of the Commission from making a single declaration for the purposes of this paragraph, which declaration shall remain in force for questions and

agenda items to be considered at all subsequent meetings subject to such exceptions or modifications as may be indicated before any individual meeting.

7. In cases where an agenda item covers both matters in respect of which competence has been transferred to the Regional Economic Integration Organization and matters which lie within the competence of its member States, both the Regional Economic Integration Organization and its member States may participate in the discussions. In such cases the meeting, in arriving at its decisions, shall take into account only the intervention of the Member which has the right to vote.

8. For the purpose of determining a quorum of any meeting of the Commission, the delegation of a Regional Economic Integration Organization that is a Member of the Commission shall be counted to the extent that it is entitled to vote in the meeting in respect of which the quorum is sought.

9. The Commission shall elect a Chairman and two Vice-Chairmen.

10. The Chairman of the Commission shall normally convene a regular session of the Commission every year unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in consultation with the Director-General of the Organization.

11. The seat of the Commission shall be at the headquarters of the Organization in Rome, or such other location as may be determined by the Commission.

12. The Organization shall provide the Secretariat for the Commission and the Director-General shall appoint its Secretary, who shall be administratively responsible to him.

13. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Rules of Procedure provided that such Rules of Procedure or the amendments thereto are not inconsistent with this Agreement or with the Constitution of the Organization.

14. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Financial Regulations, provided that such Regulations shall be consistent with the principles embodied in the Financial Regulations of the Organization. Such Regulations shall be reported to the Finance Committee of the Organization which shall have the power to disallow such Financial Regulations or amendment if it finds that they are inconsistent with the principles embodied in the Financial Regulations of the Organization.

ARTICLE III

Functions

1. The purpose of the Commission shall be to promote the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture in the Region, and to these ends it shall have the following functions and responsibilities:

a) to keep under review the state of these resources, including their abundance and the level of their exploitation, as well as the state of the fisheries based thereon;

b) to formulate and recommend, in accordance with the provisions of Article V, appropriate measures:

(i) for the conservation and rational management of living marine resources, including measures:

- regulating fishing methods and fishing gear,
- prescribing the minimum size for individuals of specified species,
- establishing open and closed fishing seasons and areas,
- regulating the amount of total catch and fishing effort and their allocation among Members,

(ii) for the implementation of these recommendations;

c) to keep under review the economic and social aspects of the fishing industry and recommend any measures aimed at its development;

d) to encourage, recommend, coordinate and, as appropriate, undertake training and extension activities in all aspects of fisheries;

e) to encourage, recommend, coordinate and, as appropriate, undertake research and development activities, including cooperative projects in the areas of fisheries and the protection of living marine resources;

f) to assemble, publish or disseminate information regarding exploitable living marine resources and fisheries based on these resources;

g) to promote programmes for marine and brackish water aquaculture and coastal fisheries enhancement;

h) to carry out such other activities as may be necessary for the Commission to achieve its purpose as defined above.

2. In formulating and recommending measures under paragraph 1 b) above, the Commission shall apply the precautionary approach to conservation and management

decisions, and take into account also the best scientific evidence available and the need to promote the development and proper utilisation of the marine living resources.

ARTICLE IV

Region

The Commission shall carry out the functions and responsibilities set forth in Article III in the Region as referred to in the Preamble.

ARTICLE V

Recommendations on Management Measures

1. The recommendations referred to in Article III, paragraph 1 b), shall be adopted by a two-thirds majority of Members of the Commission present and voting. The text of such recommendations shall be communicated by the Chairman of the Commission to each Member.
2. Subject to the provisions of this Article, the Members of the Commission undertake to give effect to any recommendations made by the Commission under Article III, paragraph 1 b), from the date determined by the Commission, which shall not be before the period for objection provided for in this Article has elapsed.
3. Any Member of the Commission may within one hundred and twenty days from the date of notification of a recommendation object to it and in that event shall not be under obligation to give effect to that recommendation. In the event of an objection being made within the one hundred and twenty days period any other Member may similarly object at any time within a further period of sixty days. A Member may also at any time withdraw its objection and give effect to a recommendation.
4. If objections to a recommendation are made by more than one-third of the Members of the Commission, the other Members shall be relieved forthwith of any obligation to give effect to that recommendation; nevertheless any or all of them may agree among themselves to give effect to it.
5. The Chairman of the Commission shall notify each Member immediately upon receipt of each objection or withdrawal of objection.

ARTICLE VI

Reports

The Commission shall transmit, after each session, to the Director-General of the Organization, a report embodying its views, recommendations and decisions, and make such other reports to the Director-General of the Organization as may seem to it necessary or desirable. Reports of the committees and working parties of the Commission provided for in Article VII of the Agreement shall be transmitted to the Director-General of the Organization through the Commission.

ARTICLE VII

Committees, Working Parties and Specialists

1. The Commission may establish temporary, special or standing committees to study and report on matters pertaining to the purposes of the Commission and working parties to study and recommend on specific technical problems.
2. The committees and working parties referred to in paragraph 1 above shall be convened by the Chairman of the Commission at such times and places as are determined by the Chairman in consultation with the Director-General of the Organization.
3. The Commission may suggest to the Organization the recruitment or appointment of specialists at the expense of the Organization, for the consideration of specific questions or problems.
4. The establishment of committees and working parties referred to in paragraph 1 above and the recruitment or appointment of specialists referred to in paragraph 3 above, shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization; the determination of such availability shall be made by the Director-General of the Organization. Before taking any decision involving expenditures in connection with the establishment of committees and working parties and the recruitment or appointment of specialists, the Commission shall have before it a report from the Director-General of the Organization on the administrative and financial implications thereof.

ARTICLE VIII

Cooperation with International Organizations

The Commission shall cooperate closely with other international organizations in matters of mutual interest.

ARTICLE IX

Expenses

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives sent to committees or working parties established in accordance with Article VII of this Agreement shall be determined and paid by the respective Members.
2. The expenses of the Secretariat, including publications and communications and the expenses incurred by the Chairman and Vice-Chairmen of the Commission, when performing duties on behalf of the Commission between Commission sessions, shall be determined and paid by the Organization within the limits of the relevant appropriations provided for in the budget of the Organization.
3. The expenses of research and development projects undertaken by individual Members of the Commission, whether independently or upon recommendation of the Commission, shall be determined and paid by the Members concerned.
4. The expenses incurred in connection with cooperative research or development projects undertaken in accordance with the provisions of Article III, paragraph 1 e), unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Cooperative projects shall be submitted to the Council of the Organization prior to implementation. Contributions for cooperative project shall be paid into a trust fund to be established by the Organization and shall be administered by the Organization in accordance with the Financial Regulations and Rules of the Organization.
5. The expenses of experts invited, with the concurrence of the Director-General, to attend meetings of the Commission, committees or working parties in their individual capacity shall be borne by the budget of the Organization.
6. The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a trust fund to be established by the Organization. The acceptance of such voluntary contributions and the administration of the trust fund shall be in accordance with the Financial Regulations and Rules of the Organization.

ARTICLE X

Amendments

1. The General Fisheries Commission for the Mediterranean may amend this Agreement by a two-thirds majority of all the Members of the Commission. Subject to paragraph 2 below, amendments shall come into force as from the date of their adoption by the Commission.
2. Amendments involving new obligations for Members shall come into force after acceptance by two-thirds of the Members of the Commission and with respect to each Member only on acceptance of it by that Member. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization who shall inform all the Members of the General Fisheries Commission for the Mediterranean, as well as the Secretary-General of the United Nations, of the receipt of acceptance and the entry into force of such amendments. The rights and obligations of any Member of the General Fisheries Commission for the Mediterranean that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.
3. Amendments to this Agreement shall be reported to the Council of the Organization which shall have the power to disallow any amendment which it finds to be inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council of the Organization considers it desirable, it may refer the amendment to the Conference of the Organization which shall have the same power.

ARTICLE XI

Acceptance

1. This Agreement shall be open to acceptance by Members or Associate Members of the Organization.
2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission.
3. Participation in the activities of the Commission by Members of the Commission which are not Members or Associate Members of the Organization shall be contingent upon the assumption of such proportionate share in the expenses of the Secretariat as may be

determined in the light of the relevant provisions of the Financial Regulations of the Organization.

4. Acceptance of this Agreement by any Member or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.

5. Acceptance of this Agreement by non-members of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.

6. The Director-General of the Organization shall inform all Members of the Commission, all Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

7. Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous approval by the Members of the Commission. Members of the Commission not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all Members of the Commission of any reservations.

8. References in this Agreement to the United Nations Convention on the Law of the Sea, 1982, or to other international agreements, do not prejudice the position of any State with respect to signature, ratification, or accession to the 1982 United Nations Convention or with respect to other agreements.

ARTICLE XII

Entry into force

This Agreement shall enter into force as from the date of receipt of the fifth instrument of acceptance.

ARTICLE XIII

Territorial Application

The Members of the Commission shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article XIV below, the scope of the territorial application may be modified by a subsequent declaration.

ARTICLE XIV

Withdrawal

1. Any Member may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General of the Organization who shall immediately inform all the Members of the Commission and the Members of the Organization of such withdrawal. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General.
2. A Member of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, with the exception of Associate Members.
3. Any Member of the Commission that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

ARTICLE XV

Interpretation and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement, if not settled by the Commission, shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by

the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court, or, in the case of a Regional Economic Integration Organization that is a Member of the Commission, it shall be submitted to arbitration unless the parties to the dispute agree to another method of settlement.

ARTICLE XVI

Termination

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Members of the Commission drops below five, unless the remaining Members unanimously decide otherwise.

ARTICLE XVII

Certification and Registration

The text of this Agreement was originally formulated at Rome on the 24th day of September one thousand nine hundred and forty-nine in the French language. Two copies in the English, French and Spanish languages of this Agreement and of any amendments to this Agreement shall be certified by the Chairman of the Commission and by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each Member of the Organization and to such non-member nations of the Organization that are or may become parties to this Agreement.

CERTIFIED TRUE COPY



Donata Rugarabamu

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