



**ELEVENTH REGULAR SESSION
FINANCE AND ADMINISTRATION COMMITTEE
Eighth Session
Faleata Sports Complex, Apia, Samoa
30 November - 6 December 2014**

FIDUCIARY ASSESSMENT

**WCPFC11-2014-FAC8-12
19 November 2014**

Introduction

1. In preparation for the Global Environment Facility-Areas Beyond National Jurisdiction (GEF-ABNJ) project, the Secretariat was required to undergo a Fiduciary Assessment in order to receive funding from the Food and Agriculture Organization (FAO). The purpose of the Fiduciary Assessment was to assess the Secretariat's internal financial operations through reviewing the Secretariat's regulations and performing an internal audit to ensure the Secretariat was following those regulations.

Fiduciary Assessment

2. The Fiduciary Assessment was conducted July through September, 2014 by Deloitte. In the finding of the assessment, Deloitte states that they "did not identify any internal control weaknesses." The Fiduciary Assessment dated August 2014 is attached for reference.¹ Although the risks were considered low, the Committee may wish to review the assessment and provide guidance on strengthening the Secretariat's finance and administrative processes.

Recommendation

10. The Committee is invited to:
 - i) Note the report.

¹ A portion of the Fiduciary Assessment included reviewing the qualifications of key project staff. The CVs have been removed from the attachments due to privacy concerns.

**Western and Central Pacific Fisheries Commission: Report
on the Project Management Capacities in Relation to the
Execution of Food and Agriculture Organization (FAO) –
GEF Project**

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

Mr. Janne Fogelgren
Project Coordinator Office
Fisheries and Aquaculture Department
Food and Agriculture Organization of the United Nations
Viale delle Terme di Caracalla
Rome, Italy

Dear Mr. Fogelgren:

We have performed the procedures enumerated below, which were agreed to by the management of Food and Agriculture Organization (FAO) of the United Nations, solely to assist FAO and the management of Western and Central Pacific Fisheries Commission (WCPFC, Executing Partner, or the Commission) in determining the project management capacities of WCPFC in relation to the execution of the FAO-GEF Project. This engagement to apply agreed-upon procedures was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, subject to terms and conditions set forth herein. The sufficiency of these procedures is solely the responsibility of the users specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Agreed-Upon Procedures

1. Description of the Executing Partner

Western & Central Pacific Fisheries Commission

Address: Kaselehlie Street PO Box 2356, Kolonia,
Pohnpei State, 96941, Federated States of Micronesia

Phone: +691 320 1992 or 320 1993

Fax: +691 320 1108

Website: <http://www.wcpfc.int/>

Email: wcpfc@wcpfc.int

The Commission is an international organization established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The Commission came into existence on 19th of June 2004 through force of the Convention. The Secretariat was established in September 2005 when the Executive Director took up his post.

The Commission is the organization through which state parties to the Convention seek to ensure, through effective management, the long term conservation and sustainable use of highly

migratory fish stocks in the western and central Pacific Ocean in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and 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.

The subsidiary bodies of the Commission are a Scientific Committee, a Technical and Compliance Committee, a Northern Committee and a Finance and Administration Committee.

The Commission is currently concentrating on:

- (i) Implementing the decisions of the Annual Sessions of the Commission in relation to conservation and management measures;
- (ii) Monitoring the effect of the conservation and management measures adopted in terms of supporting the sustainable use, conservation and management of western and central Pacific fish stocks and improving data acquired from fisheries in the Convention Area as a basis for monitoring the fisheries supported by members;
- (iii) Operationalising an integrated system for monitoring, control and surveillance, as provided for in the Convention, including establishment of the Commission's Vessel Record and Authorizations to Fish, Procedures for Listing Vessels that have undertaken IUU fishing activities in the Convention Area, implementation of the High Seas Boarding and Inspection scheme, the satellite-based vessel monitoring system and the Regional Observer Programme;
- (iv) Administration of relationships with other Regional Fisheries Management Organizations;
- (v) Monitoring initiatives to establish an international convention for straddling fish stocks and discrete high seas fish stocks in the southern Pacific Ocean;
- (vi) Supporting efforts to improve data collection and research associated with tuna fisheries and the WCPO ecosystem including initiatives to scale up tuna tagging programmes;
- (vii) Supporting efforts to promote an ecosystems approach to fisheries (EAF) and its application to WCPO;
- (viii) Supporting efforts to mitigate the impacts of tuna fishing on non-target species and the marine ecosystem;
- (ix) Supporting initiatives to evaluate management options for WCPO tuna resources including the matter of allocation;
- (x) Monitoring and engagement with global efforts to address tuna fishing capacity concerns;
- (xi) Monitoring developments in the tuna industry; and
- (xii) The establishment of a fully functional Secretariat.

2. Structure of Management

Refer to *Attachment A* for an organization chart.

The Commission has three management sections under Executive Director, which are Science, Compliance and Finance & Administration. Finance and administrative matters come to Aaron Nighswander (Finance & Administration Manager) and Merisa Delcampo (Finance Officer) and Lucille Martinez (Administrative Officer) assist him. The Commission has experienced various projects, including a project of United Nations, since it was established in 2004.

3. Administrative, finance and financial control functions

Refer to *Attachment B* for Financial Regulations.

Refer to *Attachment C* for Rules of Procedure.

Refer to *Attachment D* for Staff Regulations.

4. Risk Rating of the Executing Partner's project execution capacity

1. Executing Partner – Low risk
2. Funds Flow – Low risk
3. Staffing – Low risk
4. Procurement – Low risk
5. Accounting Policies and Procedures – Low risk
6. Internal Audit – Internal audit is not performed.
7. External Audit – Low risk
8. Reporting and Monitoring – Low risk
9. Information Systems – Low risk

5. Description of any specific internal control weaknesses noted in project management including financial management

We did not identify any internal control weakness.

6. Checklist for the assessment of executing partner

Refer to attached Checklist (Annex 1)

7. Recommendations for monitoring and assurance activities to address or compensate for the weaknesses in the short term

We did not identify such.

8. Recommendations presented in the completed "mitigation plan for fiduciary risks" (annex 2) to resolve/eliminate the weaknesses noted, including capacity development measures and up-grating and implementation of systems

Refer to attached Table (Annex 2)

* * * * *

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on determining the project management capacities of WCPFC in relation to the execution of the FAO-GEF Project. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the managements of FAO and WCPFC and should not be used by anyone other than these specified parties.

Deloitte + Touche LLP

August 11, 2014

Checklist For the assessment of execution partner

Executing Partner: Western & Central Pacific Fisheries Commission (WCPFC or the Commission)

Date: August 11, 2014

Summary of Risks related to fiduciary standards and Management Capacity of Executing Partner					
Tested Subject Area (see subsequent pages for questions for each area that should be completed and summarized in this table)					
	Risk Assessment				Comments
	<i>H</i>	<i>S</i>	<i>M</i>	<i>L</i>	
1. Executing Partner				X	
2. Funds Flow				X	
3. Staffing				X	
4. Procurement				X	
5. Accounting Policies and Procedures				X	
6. Internal Audit				X	Not performed. To be addressed in the Executive Agreement.
7. External Audit				X	
8. Reporting and Monitoring				X	
9. Information Systems				X	
Inherent Risk (List major specific issues identified in the assessment of the country's public financial management system (macro-assessment), or specific risks related to the nature or operation of the Executing Partner)					
Inherent risk is low - The Commission has received unqualified opinion on the financial statements audit in previous years.					
Overall Risk Assessment	<i>H</i>	<i>S</i>	<i>M</i>	<i>L</i>	Circle assessed general risk for the execution of the project

H – High

S – Significant

M – Moderate

L –Low

See accompanying independent accountants' report on applying agreed-upon procedures.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
1. Executing Partner(EP)					
1.1 Is the EP legally registered? Please note the legal status/registration of the entity.	X				The Commission was established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. A headquarter agreement is in place between the Commission and the Federated States of Micronesia.
1.2 Has the EP received UN resources in the past?	X				The Commission has received funds from UNOPS. The contract with UNOPS is included (Attachment H).
1.3 Does the EP have statutory reporting requirements? Please describe.	X				They are described under the Commission's Financial Regulations. The Financial Regulations are included (Attachment B). According to the Commission's Financial Regulations, the Commission shall appoint an external auditor for the annual audit of the financial statements.
1.4 Is the governing body for the EP independent?	X				The Secretariat is governed by its members. The role of the Commission and its oversight of the Secretariat is described in the Rules of Procedure and the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. Both Documents are included (Attachment C and I).

Subject Area	Yes	No	N/A	Review	Remarks/Comments
1.5 Is the organizational structure appropriate for the work to be carried out under The FAO-GEF project?	X				An organizational chart is included (Attachment A). The Commission's organizational structure consists of the three main branches, which are Science, Compliance and Finance and Administrative, which enabled the Commission to perform several scientific projects in the past. The structure appears to be appropriate for performing the FAO-GEF project.
<i>Risk Assessment (Executing Partner)</i>	H	S	M	L	Circle assessed risk for Subject Area 1
2. Funds Flow					(see risk assessment by D&T in blue circle)
2.1 Can the EP receive and transfer funds?	X				Yes, based on our walk through.
2.2 Are the arrangements to transfer the funds to the EP satisfactory?	X				Yes, based on our walk through
2.3 Have there been major problems in the past in receipt of funds by the EP, particularly where the funds flow from the Government/Ministry of Finance?		X			The Commission receive annual contributions for our members without any difficulties.
2.4 In the past, has the EP had any problems in the management of disbursements from a member of the UN country team? Please describe.		X			No. The Commission also received unqualified opinions for the 2010, 2011 and 2012 financial statement audit.
2.5 Does the EP have/need capacity to manage foreign exchange risks? (if it is expected that the EP will be using funds from outside the country.)		X			No, the Commission operates in US Dollar.
2.6 Is it clear how the co-financing contribution will be made? Explain how in comments	X				Yes. Contributions from the Commission. Per inquiry with the Finance and Administration Manager, the co-financing contribution will be made from the Commission.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
2.7 Is it clear how contributions are made from the counterpart in-kind co-financing? Explain how in comments		X			WCPFC will track project co-financing as committed in the project document.
2.8 If some activities will be implemented by communities or NGOs, does the EP have the necessary reporting and monitoring mechanisms to track the use of funds?	X				Yes. The Commission keeps financial records by fund and such is monitored by Finance & Administrative Manager.
<i>Risk Assessment (Funds Flow)</i>	<i>H</i>	<i>S</i>	<i>M</i>	L	Circle assessed risk for Subject.
3. Staffing					
3.1 Is the level and competency of technical staff appropriate for the activities and outputs to be delivered by the FAO-GEF project? Attach job descriptions and CVs of key technical staff and indicate eventual key technical positions not contracted yet, and the estimated date of appointment.	X				The large part of the work will be conducted by the Secretariat of the Pacific Community (SPC) and Dr. Shelley Clarke. Dr Clarkes CV is included (Attachment E). More information on SPC can be found at www.spc.int
3.2 Is the organizational structure of the accounting department appropriate for the level of financial volume? Attach an organization chart.	X				Organization chart is attached (Attachment A).
3.3 Is the level and competency of staff appropriate for the level of financial volume? Identify the accounts staff, including job title, responsibilities, educational background and professional experience. Attach job descriptions and CVs of key accounting staff.	X				Aaron Nighswander- Finance and Administration Manager. Master's degree. CV attached Job Description Attached (Attachment F). Merisa Delcampo- Finance Officer. 3 year diploma in Accounting. CV attached Job Description Attached (Attachment G).

Subject Area	Yes	No	N/A	Review	Remarks/Comments
3.4 Is the EP finance and accounts function staffed adequately?	X				Yes but due to the small size of the administrative unit in the Secretariat, changes in staffing may have an impact on operations. We judgmentally selected a General Journal #387 (\$94,148 to record unliquidated obligations) and scrutinized the transaction without noting any unusual activity.
3.5 Are finance and accounts staff adequately qualified and experienced?	X				
3.6 Are accounts and finance staff familiar with FAO procedures related to cash transfers?	X				These were reviewed at the Project Inception Workshop in Rome that both the Executive Director and Finance and Administrative Manager Attended.
3.7 What is the duration of the contract of finance and accounts staff? Indicate in the remarks/comments section key finance and accounts positions not contracted yet, and the estimated date of appointment.					Aaron Nighswander- Finance and Administration Manager. Two - four year terms for a total of 8 years. Has been with the Secretariat for three and half years. Merisa Delcampo- Finance Officer. Unlimited term. Has been with the Secretariat for two and half years.
3.8 Are staff frequently transferred? At what frequency?		X			The turnover rate is between two to eight years based on the information from the Commission's inception in 2004.
3.9 Is there a training policy for the finance and accounting staff? Please describe.		X			There is no policy but funds are provided for staff to receive training. Training plan included in staff annual performance appraisals.
<i>Risk Assessment (Staffing)</i>	H	S	M	L	Circle assessed risk for Subject Area 3
4. Procurement					

Subject Area	Yes	No	N/A	Review	Remarks/Comments
<i>General</i>					
4.1 Has different types of contracting and procurement processes been established and regulated in accordance with amount and complexity of the contract?		X			The Commission has a limited number of contracts and therefore, contracts are signed either the Executive Director or other delegated staff depending on the nature of engagement. Procedures for recruitment of consultants and procurement will be spelled out in the Execution Agreement between FAO and WCPFC for the ABNJ Tuna Project
4.2 The procedures and responsibilities assigned to personal have been clearly defined in the following areas: procurement planning; preparation of tender/Terms of Reference and contract material; publishing and announcement of calls for CVs/tenders (if required); prequalification of suppliers/contractors/consultants; receiving and opening of proposals; analysis and evaluation of proposals; awarding and signing of contracts; administration of contracts?		X			As described in the Financial Regulations and included in staffs TORs.
4.3 There is a system of pre-established forms that sustain all the activities in the procurement process mentioned above?		X			Only contract forms are standardized
4.4 There is a file system for all documentation sustaining procurement processes (equipment and consultant services) allowing for direct referral and identification of the effectuated transactions during an external audit? (this system should include procurement and transactions involving project funds made by sub-contractors)	X				All contracts are labelled with a number that is tied to the financial system. Asset tags are placed on physical assets. Can refer to Audited financial statements.
<i>Consultant services</i>					

Subject Area	Yes	No	N/A	Review	Remarks/Comments
4.5 The EP complies with FAO policies and procedures for transparency and competitiveness in the contracting of consultancy services including preparation of Terms of Reference, calls for CVs/proposals, short lists, no-objections by FAO, evaluation by a review panel with no conflicts of interests between panel members and candidates for the consultancy?	X				A standard process is in place for ensuring transparency and competitiveness in the contracting of consultancy services within the Commissions regulations.
<i>Equipment</i>					
4.6 Are there transparent procedures for ordering of equipment allowing fair and public tendering among at least 3 potential suppliers?	X				Yes the principles of transparency applies but due to the small size of the island, there are often only 1 or 2 vendors that are available to supply tenders.
4.7 Is there a tender review panel with members that have no connections with, links or financial interests in potential suppliers?	X				For large tenders. Members of the panel differ depending on the technical requirements of the procurement. The Execution Agreement will detail procurement procedures.
4.8 Is preference given to least cost supplier?	X				Yes, but quality of the items is also a consideration.
4.9 Equipment, including vehicles, is kept in safe custody and maintained following the maintenance manuals of the suppliers?	X				Yes, when possible. Due to the small size of the island there are not many authorized dealers that can provide maintenance.
4.10 Personal, independent of the register and management of equipment, undertake periodic verification of the physical existence of procured equipment?	X				An annual inventory is conducted. We scrutinized annual inventory sheet provided by Merisa.
<i>Risk Assessment (procurement)</i>	H	S	M	L	Circle assessed risk for Subject Area 4a
5. Accounting Policies and Procedures					
5.1 Does the EP have an accounting system that allows for the proper recording of financial transactions from UN Agencies, including the allocation of expenditures in accordance with the respective components and outputs, disbursement categories, and sources of funds?	X				These will be set up in QuickBooks as with the Commission's other projects. The Commission uses QuickBooks for bookkeeping and maintains trial balances by fund.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
5.2 Are controls in place concerning the preparation and approval of transactions, ensuring that all transactions are correctly made and adequately explained?	X				Yes. Purchase request is prepared by Finance Officer and such is reviewed and approved by Finance & Administrative Manager.
5.3 Is the chart of accounts adequate to properly account for and report on activities and disbursement categories?	X				Yes. The Commission appears to have an adequate chart of accounts that we were able to verify.
5.4 Are cost allocations to the various funding sources made accurately and in accordance with established agreements?	X				Yes. The expenditures are recorded by fund.
5.5 Are the general ledger and subsidiary ledgers reconciled and in balance?	X				
5.6 Are all accounting and supporting documents retained on a permanent basis in a defined system that allows authorized users easy access?	X				Yes, accounting records are in QuickBooks and supporting documents are kept in manual files.
<i>Segregation of Duties</i>					
5.7 Are the following functional responsibilities performed by different units or persons: (a) authorization to execute a transaction; (b) recording of the transaction; and (c) custody of assets involved in the transaction?	X				Yes. Authorization – Finance and Administration Manager Recording – Finance Officer Custody – Administrative Officer
5.8 Are the functions of ordering, receiving, accounting for, and paying for goods and services appropriately segregated?	X				Typically but due to the small size of the administrative staff these function are not always separated.
5.9 Are bank reconciliations prepared by someone other than those who make or approve payments?	X				Yes. Bank reconciliations are prepared by the Finance Officer and approved by the Finance and Administration Manager. The Finance and Administration Manager and the Executive Director are the only ones who can make and approve payments.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
<i>Budgeting System</i>					
5.10 Do the budgets lay down physical and financial targets?		X			Budgets are approved by the Commission and outputs are defined by Commission Members at the annual meeting.
5.11 Are annual budgets prepared for all significant activities in sufficient detail to provide a meaningful tool with which to monitor subsequent performance?	X				Yes. Budgets are disclosed to member countries during the regular session.
5.12 Are actual expenditures compared to the budget with reasonable frequency, and explanations required recorded un file for significant variations from the budget?	X				Actual expenditures compared to the budget and significant variations must be approved by the Executive Director and/or Chair of the Commission
5.13 Are approvals from variations from the budget required in advance or after the fact?	X				In advance and conducted as per our Financial Regulations.
5.14 Who is responsible for preparation and approval of annual budgets?					The Finance and Administration Committee prepares the annual budget and it is approved by the Commission.
5.15 Are procedures in place to plan activities, collect information from the units in charge of the different components, and prepare the annual budgets?	X				The budget for the Commission is developed by the subsidiary bodies of the Commission and then approved at the Commission meeting.
5.16 Are the plans and budgets of activities realistic, based on valid assumptions, and developed by knowledgeable individuals?	X				For the majority of the budget, costs are based on actual expenses.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
<i>Payments</i>					
5.17 Do invoice processing procedures provide for: <ul style="list-style-type: none"> • Copies of purchase orders and receiving reports to be obtained directly from issuing departments? • Comparison of invoice quantities, prices, and terms with those indicated on the purchase order and with records of goods actually received? • Comparison of invoice quantities with those indicated on the receiving reports? • Checking the accuracy of calculations? 	X				Yes, based on our walk through.
5.18 Are all invoices stamped <i>PAID</i> , dated, reviewed and approved, and clearly marked for account code assignment?	X				Invoices are approved by the relevant staff but not always stamped with PAID (depending on the vendor). All paid invoices are attached to the check or electronic payment and filed.
5.19 Do controls exist for the preparation of the payroll and are changes to the payroll properly authorized?	X				The payroll is based on the employment contract and annual assessment. The Commission has a chart of staff level and payroll is calculated based on such chart.
<i>Policies And Procedures</i>					
5.20 Describe the basis of accounting (e.g., cash, accrual)?					Accrual
5.21 Are internationally accepted accounting standards followed? If so, which standard?	X				United Nations System Accounting Standards
5.22 Does the EP have adequate policies and procedures manual to guide activities and ensure staff accountability?	X				There are both the Financial Regulations and the Staff Regulations. Both documents are included.
5.23 Do procedures exist to ensure that only authorized persons can alter or establish a new accounting principle, policy, or procedure to be used by the EP?	X				The Financial Regulations and Staff Regulations can only be altered with approval of the Commission members.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
5.24 Are there written policies and procedures covering all routine financial management and related administrative activities? Are these accessible?	X				Yes, such is included in the Financial Regulation (Attachment B).
5.25 Do policies and procedures clearly define <i>conflict of interest</i> and <i>related party transactions</i> (real and apparent) and provide safeguards to protect the organization from them?		X			No, such is not defined. Mitigation measure will be described in the Execution Agreement between FAO and WCPFC on the requirement for disclosure and staff member/family interest.
5.26 Are manuals distributed to appropriate personnel?	X				All available online.
<i>Cash and Bank</i>					
5.27 Indicate in remarks/comments section the names and positions of authorized signatories on the bank accounts.					Glenn Hurry- Executive Director Aaron Nighswander- Finance and Administration Manager Sung Kwon Soh- Science Manager
5.28 Does the EP maintain an adequate, up-to-date cashbook, recording receipts and payments?	X				Yes, such is performed in QuickBooks.
5.29 Do controls exist for the collection, timely deposit, and recording of receipts at each collection location?	X				The Commission has one office (HQ in Pohnpei) and collections are monitored by Aaron and Merisa using the accounts receivable aging schedule.
5.30 Are bank and cash reconciled on a monthly basis?	X				The reconciliation is performed by the Finance Officer and reviewed by Finance and Administration Manager.
5.31 Are all unusual items on the bank reconciliation reviewed and approved by a responsible official?	X				Yes, unusual items are reviews by the Finance and Administration Manager.
5.32 Are receipts deposited on a timely basis?	X				Weekly by the Finance Officer.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
<i>Safeguard Over Assets</i>					
5.33 Is there a system of adequate safeguards to protect assets from fraud, waste and abuse?	X				The Commission's assets are under control of Finance & Administration. Assets are located in its main office building and the fenced garden outside. A security guard is there for 24 hours.
5.34 Are subsidiary records of fixed assets and stocks kept up to date and reconciled with control accounts?	X				Annually. We scrutinized fixed asset register provided by the Finance Manager.
5.35 Are there periodic physical inventories of fixed assets and stocks?	X				Annually. We scrutinized fixed asset inventory sheet provided by the Finance Manager.
5.36 Are assets sufficiently covered by insurance policies?	X				Yes. The Commission's assets such as boats and vehicles are covered by insurance (as we scrutinized insurance policy).
<i>Other Offices or entities (PNGOs)*²</i>					
5.37 Are there regional or local offices of the EP participating in the implementation of the FAO-GEF project?		X			No, the Commission has only one office in Pohnpei.
5.38 Has the EP established controls and procedures for flow of funds, financial information, accountability, and audits in relation to the other offices or entities? Please describe approval process.			X		
5.39 Does information among the different offices/Agencies flow in an accurate and timely fashion?			X		
5.40 Are periodic reconciliations performed among the different offices/Agencies?			X		

² Other offices or entities refers to sub-offices of the Executing partners and/or respective parties.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
<i>Other</i>					
5.41 Has the EP advised employees, beneficiaries, and other recipients to whom to report if they suspect fraud, waste, or misuse of resources or property?	X				To the Executive Director. If the suspected fraud, waste, or misuse of resources or property is by the Executive Director, it should be reported to the Chair of the Commission.
<i>Risk Assessment (Accounting Policies and Procedures)</i>	H	S	M	L	Circle assessed risk for Subject Area 4
6. Internal Audit					
6.1 Does the EP have an internal audit department?		X			The Commission does not perform internal audits. Mitigation measure might be to ensure that annual external audits are conducted and the FAO reviews these audits and follow ups to ensure that WCPFC has taken action on audit recommendations, if any.
6.2 What are the qualifications and experience of audit department staff?			X		
6.3 Is the internal auditor sufficiently independent to make critical assessments? To whom does the internal auditor report?			X		
6.4 Will the internal audit department include the activities financed by the FAO-GEF project in its work program?			X		
6.5 Are actions taken on the internal audit findings?			X		Risk assessment - N/A
<i>Risk Assessment (Internal Audit)</i>	H	S	M	L	Circle assessed risk for Subject Area 5
7. External Audit					
7.1 Is the entity financial statement audited regularly by an independent auditor? Who is the auditor?	X				An annual financial report is produced. The current auditor is Deloitte & Touche LLP
7.2 Are there any delays in audit of the EP? When are the audit reports issued?		X			Reports are issued by the end of July for the previous year.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
7.3 Is the audit of the entity conducted according to the International Standards on Auditing?	X				Yes. Audit was performed in accordance with auditing standards generally accepted in the United States of America.
7.4 Were there any major accountability issues brought out in the audit report of the past three years?		X			None.
7.5 Will the entity auditor audit the FAO-GEF project accounts and financial statements or will a separate auditor be appointed to audit these items for the FAO-GEF project?	X				External auditor will audit the Commission's financial statements. A separate audit for such project has not been scheduled.
7.6 Are there any recommendations made by the auditors in prior audit reports or management letters that have not yet been implemented?		X			None.
7.7 Has the EP prepared audit plans?	X				As per our Financial Regulations
<i>Risk Assessment (External Audit)</i>	H	S	M	L	Circle assessed risk for Subject Area 6
8. Planning, Reporting and Monitoring					
8.1 Are Annual Work Plans (AWP) prepared in consultation with all project partners and based on the targets set for output and outcomes in the project Logical/Results framework including: activities and budget needed to achieve the targets, schematic illustration of the order and timeline for implementation of the activities, clear distribution of responsibilities for coordination and execution of the activities, and risks and mitigation measures for the successful implementation of the AWP?	X				The annual work plan will be discussed with partners in the WCPFC managed activities, with the Global Coordinator of the ABNJ Tuna project, FAO Lead Technical Officer and Budget Holder and approved at annual Project Steering Committee meetings.

Subject Area	Yes	No	N/A	Review	Remarks/Comments
8.2 Is clear procedures in place for justification and modification of the AWP including no-objection by the donor (FAO country office)?	X				These were reviewed at the Project Inception Workshop in Rome that both the Executive Director and Finance Officer attended. We interviewed the Administrative Manager. The AWP/B will be updated annually, discussed with the Global Coordinator of the ABNJ Tuna Project, FAO Lead Technical Office and Budget Holder and approved at annual Project Steering Committee meetings.
8.3 Does the entity have a monitoring system to monitor the indicators for project output and outcomes as established in the project Logical Framework/Results Framework and AWP?	X				The Secretariat will use the Smartsheet system developed by FAO.
8.4 Are reporting formats and procedures established with subcontracted third parties to allow for six monthly and annually project implementation progress reports comparing outputs with annual targets in the AWP?	X				Once the project has commenced, subcontracted third parties will provide six monthly and annual project implementation progress reports comparing outputs with annual targets in the AWP.
8.5 Are the progress reports prepared in a timely fashion?	X				Once the project has commenced, the six-monthly reports will be prepared in a timely fashion.
8.6 Are procedures in place to assure adjustments in project execution in case derivations from AWP are identified in progress reports?	X				The Secretariat will use the Smartsheet system developed by FAO.
8.7 Are financial statements prepared for the EP?	X				Once the project has commenced, financial statement will be prepared.
8.8 What is the frequency of preparation of financial statements? Are the reports prepared in a timely fashion to be useful to management for decision making?					Annual reports are created for the Commission. Monthly and ad-hoc reports are created for internal management every six-months.
8.9 Does the reporting system need to be adapted to the required reporting for the FAO-GEF project?		X			

Subject Area	Yes	No	N/A	Review	Remarks/Comments
8.10 Does the reporting system have the capacity to link the financial information with the AWP's physical progress? If separate systems are used to gather and compile physical data, what controls are in place to reduce the risk that the physical data may not synchronize with the financial data?		X			The financial system will link the physical data to the annual work plans through the creation of accounting codes for each category of funding.
8.11 Does the EP have established financial management reporting responsibilities that specify what reports are to be prepared, what they are to contain, and how they are to be used?	X				These are contained in the Financial Regulation and FOA policy
8.12 Are financial management reports and project implementation progress reports used by management?	X				
8.13 Do the financial reports compare actual expenditures with budgeted and programmed allocations?	X				
8.14 Are financial reports prepared directly by the automated accounting system or are they prepared by spreadsheets or some other means?	X				The office uses QuickBooks Enterprise to manage the finances.
<i>Risk Assessment (Monitoring and Reporting)</i>	H	S	M	L	Circle assessed risk for Subject Area 7

9. Information Systems					
9.1 Is the financial management system computerized?	X				The office uses QuickBooks Enterprise to manage the finances.
9.2 Can the system produce the financial reports required for the FAO-GEF project by components and by outputs?	X				Yes. The Commission uses QuickBooks to keep records and to generate reports by fund.
9.3 Are the staff adequately trained to maintain the system?	X				Both Aaron Nighswander- Finance and Administration Manager and Merisa Delcampo- Finance Officer have received training in QuickBooks.

9.4 Does the management organization and processing system safeguard the confidentiality, integrity, and availability of the data?	X				IT systems reviewed annually. Agreed upon procedures have been annually performed by Deloitte & Touche LLP.
<i>Risk Assessment (Information Systems)</i>	H	S	M	L	Circle assessed risk for Subject Area 8

(The table below should only include the areas where risks have been identified in the Checklist above)

We did not identify any risks in addition to the two below indicated.

Identified risks	Causes (specific reason for the executing partner not meeting this requirement)	Impacts (what are the potential impacts on the project and the level of risk?)	Mitigation measures and actions for correction (to be taken before signature of agreement with FAO or during project inception. Please specify dates for reporting to FAO for completion of actions)
1. Executing Partner			
2. Funds Flow			
3. Staffing			
4. Procurement	WCPFC does not have a financial disclosure policy, but the principles of transparency apply to the small size of the island, there are often only 1 or 2 vendors that are available to submit tenders.		The EA will require WCPFC to disclose any financial interest of WCPFC staff or immediate family in any of the suppliers of goods and services. Procurement procedures will be described in the EA.
5. Accounting Policies and Procedures			
6. Internal Audit	Internal audit is not performed.		Ensure that annual external audits are conducted and that FAO reviews these audits and follows up to ensure the WCPFC has taken action on audit recommendations, if any.
7. External Audit			
8. Reporting and Monitoring			
9. Information Systems			

See accompanying independent accountants' report on applying agreed-upon procedures.

Description of Services to be provided by WCPFC

Output 3.1.1 *Shark Data Improvement and Harmonization:* *Harmonized and integrated bycatch data collection on sharks from WCPFC and IATTC regions, including a t-RFMO shark data inventory; and data improvement field studies including tagging.*

1. What will be achieved?

This component will develop a practical and consistent approach to monitoring the status of sharks caught by ABNJ tuna fisheries. It focuses on identifying the data deficiencies which inhibit management and proposes strategies to obtain more data through field studies and better information return from fisheries.

2. Structure of the process towards achievement

An inventory will be conducted via the five t-RFMOs to determine the status of data holdings, management arrangements and risks for shark species in each area. Priority data improvement activities will then be identified and may include:

- **Minimum standards** for shark data collection and management, and programmes to promote the uptake of these standards for national/regional logsheets and databases (catch, size, biological, data verification, RFMO submission formats).
- **Data mining** and/or processing of historical and alternative data sets to produce usable data (unsubmitted data, duplicated data, filtering/rectification of logsheet data, trade data to cross-check catch data).
- **Harmonization of datasets** and training for observer recording of shark condition and fate (improved mortality estimates).
- **Tagging studies of post-release mortality** of sharks, including whale sharks, for which t-RFMO “no-retention” management measures exist. Improved **identification of priority shark species** (observers, fishermen, port samplers) through field guides and training materials.

Existing and proposed mechanisms for filling various types of data gaps (e.g. via project-based, national (NPOAs), multilateral, or t-RFMO initiatives) will be explored and evaluated.

3. Intermediate targets

A data inventory and assessment of harmonization opportunities will be prepared. Using this document as a basis, priority data improvement activities will be identified. Data improvement activities will be initiated based on their priority and the support (budget, partnerships) available.

4. Why it is important for the entire project and the achievement of the outcomes?

The completed inventory will be used to identify priority assessment and management activities under Output 3.1.2. These products then lead to the formulation of new conservation and management measures to maintain biodiversity in ABNJ tuna fisheries.

See accompanying independent accountants’ report on applying agreed-upon procedures.

5. Partners involved, roles and responsibilities in terms of supervision, coordination, implementation of the activities and monitoring

Data improvement activities will be focused in the two partner t-RFMOs for the shark elements of the ABNJ Tuna Project (WCPFC and IATTC). The Technical Coordinator-Sharks and Bycatch will have the lead for implementing the activities in WCPFC, and ICCAT, IOTC and CCSBT (depth of coverage will depend on each t-RFMOs desire to participate). The IATTC Shark Data Analyst will lead all IATTC activities under this task. Supervision will be provided by the Executive Directors of the WCPFC and IATTC, through a joint Steering Committee, and by the ABNJ Tuna Project Coordinator. Opportunities to stimulate potential partners to improve shark data should also be explored, e.g. the three other t-RFMOs (ICCAT, IOTC, CCSBT), national authorities through existing or new NPOA-Sharks; regional research programmes; regional fisheries management bodies (e.g. Forum Fisheries Agency, Parties to the Nauru Agreement, Western Pacific Fisheries Management Council, Te Vaka Moana); industry bodies (e.g. International Seafood Sustainability Foundation, Pacific Island Tuna Industry Association); and others.

Summary Task 1: Collaborative arrangements and work planning (supported by Annex 3, line items 2-4)

- Meet with key partners FAO, IATTC and WCPFC/SPC to develop a detailed project plan including specific activities under Shark Data Inventory Studies, Shark Data Improvement Studies (minimum standards, data mining, data harmonization, identification guides and post-release mortality tagging)
- Introduce the project and consult on member, industry and NGO needs at each t-RFMO (in conjunction with Output 3.1.2, Task 1)
- Establish a pan-Pacific shark Steering Committee with representation from WCPFC and IATTC Secretariats (in conjunction with Output 3.1.2, Task 1)
- Establish an annual ABNJ Tuna Project-Sharks and Bycatch Consultative Committee, to be held in the margins of the WCPFC Annual Meeting, to consult WCPFC and IATTC member countries and territories on shark and bycatch activities (in conjunction with Output 3.1.2, Task 1)

Summary Task 2: Baseline shark inventory (supported by Annex 3, line items 2-4, 7)

- Develop and catalogue available shark data holdings at WCPFC (and ICCAT, IOTC and CCSBT as practical) and regional/national institutions (IATTC will be responsible for the IATTC catalogue and these two products will then be merged)
- Make recommendations for harmonization of data types and formatting
- Identify and prioritize gaps and inconsistencies in data holdings by species, fishery and region
- Prepare a composite global inventory incorporating the products delivered by IATTC
- Report on t-RFMO responses to the recommendations (will inform Summary Task 3)

Summary Task 3: Identify and initiate data improvement activities for WCPFC (currently no scope to involve the other three t-RFMOs in this task but this could change if there is interest/resources; IATTC will conduct their own data improvement activities) (supported by Annex 3, line items 8-10)

See accompanying independent accountants' report on applying agreed-upon procedures.

- Explore needs and opportunities for WCPFC data improvement under existing programmes, e.g. logsheet reporting, observers, port sampling, trade data, etc., then identify and initiate activities in the areas of minimum standards, data mining, harmonization of data, and/or preparation of field identification materials (line items 8 & 10)
- Plan and undertake WCPFC field studies designed to improve data for stock status assessments, in particular post-release mortality studies (line item 9)
- Assist with identifying, planning and undertaking IATTC activities as requested by IATTC through the joint Steering Committee (line items 2-4)

Summary Task 4: Reporting to FAO Project Management Unit (supported by Annex 3, line items 2-4)

- Provide half-year progress reports for Jan-Jun and Jul-Dec for all years of the project.

See accompanying independent accountants' report on applying agreed-upon procedures.

Output 3.1.2 *Shark Assessment and Management:* *Assessment methods catalogue prepared for one ocean basin with results made available globally; four additional species assessments (including species risk assessments); and results used for priority setting and development of robust pan-Pacific Conservation and Management Measures*

1. What will be achieved?

The objective of this component is to identify risks and priorities for shark conservation through assessment, using new data generated under Output 3.1.1 and improved tools developed under this component as appropriate. After evaluating whether the existing management framework is sufficient, measures to strengthen shark management by t-RFMOs will be proposed.

2. Structure of the process towards achievement

Assessment methods and results used for sharks by the t-RFMOs will be catalogued as metadata, along with any management measures in place and any available evaluations of their effectiveness. The completed inventory will be used to identify where further assessment is needed and which methods are best suited to each circumstance. Common minimum standards for assessments will be proposed, in particular for species whose range spans more than one t-RFMO area. Four new assessments will be conducted: these may include previously unassessed species, species for which recent data improvements warrant a re-assessment of their status, or species for which the effects of mitigation measures on stock status require re-evaluation. Methods may include ecological risk assessments, indicators, full stock assessments, or other methods including those designed to support non-detriment findings under CITES. Evaluation of the sustainability of current mortality rates, for example through the development and application of reference points, may also be undertaken. In cases where management needs to be strengthened, new conservation and management measures will be developed.

3. Intermediate targets

A compendium of existing and best practice assessment methodologies will be developed across all t-RFMOs describing data requirements, practicality, effectiveness and history of application. This will form the basis for recommendations for common standards amongst t-RFMOs particularly for cross-boundary stocks. Four new assessments will be produced, using new data or methods as appropriate. Where management shortfalls are identified, new conservation and management measures will be developed in support of t-RFMO member-led policy-making processes.

4. Why it is important for the entire project and the achievement of the outcomes?

This component supports a priority tasks agreed by the Kobe TWG-Bycatch involving standardization of ecological risk assessment methodologies, in this case for sharks. It also facilitates the adoption of new, effective shark conservation and management measures, primarily in the Pacific (WCPFC and IATTC) but also potentially in other t-RFMOs.

See accompanying independent accountants' report on applying agreed-upon procedures.

5. Partners involved, roles and responsibilities in terms of supervision, coordination, implementation of the activities and monitoring

This work will be led by the Technical Coordinator—Sharks and Bycatch, drawing upon consultants where necessary, and with the support of expert consultants and scientists based at the other t-RFMOs, in particular IATTC. The Technical Coordinator—Sharks and Bycatch will be responsible for the identification and development of new conservation and management measures which will be coordinated with participating t-RFMO staff, and potentially, national partners acting as proponents in the two partner t-RFMOs (WCPFC and IATTC). Results can also be transmitted into the other t-RFMOs through WCPFC and IATTC members acting as proponents in other t-RFMOs.

Summary Task 1: Collaborative arrangements and work planning (supported by Annex 3, line items 2-4)

- Meet with key partners FAO, IATTC and WCPFC/SPC to develop a detailed project plan
- Introduce the project and consult on member, industry and NGO needs at each t-RFMO (in conjunction with Output 3.1.1, Task 1)
- Establish a pan-Pacific shark Steering Committee with representation from WCPFC and IATTC Secretariats (in conjunction with Output 3.1.1, Task 1)
- Establish an annual ABNJ Tuna Project-Sharks and Bycatch Consultative Committee, to be held in the margins of the WCPFC Annual Meeting, to consult WCPFC and IATTC member countries and territories on shark and bycatch activities (in conjunction with Output 3.1.1, Task 1)

Summary Task 2: Compile methods for assessing shark populations including their data requirements, ease and effectiveness of application, history in t-RFMOs, etc. and produce a global compendium (supported by Annex 3, line items 2-4, 13)

- Work with WCPFC/SPC and IATTC to develop format and specifications for the assessment methods catalogue
- Explore potential for harmonization between methodological approaches by different t-RFMOs as well as with other assessment programmes such as NDFs for CITES
- Produce compendium on methods and global status of shark species caught in t-RFMO fisheries

Summary Task 3: Conduct four new shark stock status assessments (supported by Annex 3, line items 14-15)

- Priority shark stocks will be identified at a later stage of the project
- Data and methods to be applied in the stock status assessments will be identified at a later stage of the project but initially two traditional stock assessments and two, innovative approaches to assessing stock status are planned.

See accompanying independent accountants' report on applying agreed-upon procedures.

Summary Task 4: Formulate new conservation and management measures reflecting the technical progress delivered by the project (supported by Annex 3, line items 2-4 and 16-17)

- Types and format of measures to be identified at a later stage of the project
- A strategy for seeking support and consensus in t-RFMO forums will be identified at a later stage of the project

Summary Task 5: Reporting to FAO Project Management Unit (supported by Annex 3, line items 2-4)

- Provide half-year progress reports for Jan-Jun and Jul-Dec for all years of the project.

See accompanying independent accountants' report on applying agreed-upon procedures.

Output 3.1.3. *Management decision making processes enhanced and accelerated through all t-RFMOs, their Members, the fishing industry and other stakeholders having access to all relevant material on bycatch management measures and practices in tuna fisheries available through a global Bycatch Management Information System (BMIS).*

1. What will be achieved?

This component will collate, catalyze and disseminate new information that will direct effective management to mitigate impacts on bycatch species including sharks, seabirds, sea turtles and cetaceans. The global BMIS aims to reduce technical uncertainties across a range of stakeholders, allowing t-RFMO discussions to focus on management issues such as cost and feasibility. This is expected to lead to an increase in the effectiveness of biodiversity conservation in the ABNJ. This output encompasses mitigation-themed tasks for all bycatch, and, where necessary to support better decision-making, provides for data improvement/harmonization and enhanced assessment methods for seabirds, sea turtles and cetaceans (as sharks are covered in Outputs 3.1.1 and 3.1.2).

2. Structure of the process towards achievement

This component focuses on expanding and facilitating access to existing information and engendering collaborations to produce new information on bycatch interactions and mitigation techniques. Work is proposed as three tasks: (i) enhancing the existing data platform and updating it with the latest existing information; (ii) using the platform as a vehicle to identify and promote improved data standards and harmonisation; and (iii) convening workshops which draw together holders of non-public domain data for collaborative analysis producing new findings which can be made publicly available through the BMIS.

The first task will include entry of new information that has become available since the BMIS was last updated as well as re-designing the BMIS to broaden the scope of information it can contain. This may include modules for risk assessment information, spatial information, summary statistics and/or inclusion of cost-benefit information on mitigation techniques. The BMIS interface will be re-designed based on feedback from users based in a range of countries and backgrounds to enhance its accessibility. Data to be loaded or linked will include datasets, reports or static maps sourced from t-RFMO or other papers, observer programmes, tracking and tagging studies, and other ABNJ Tuna project results.

The second task will identify the extent to which the bycatch information collected across the five t-RFMOs is consistent and compatible, as well as effective in addressing bycatch management information needs. This task will primarily focus on seabirds, sea turtles and cetaceans, with ideas for sharks being progressed under Outputs 3.1.1 and 3.1.2. This task works toward one of the goals of the Kobe TWG-Bycatch of facilitating the inter-operability of bycatch information. This will involve not only the harmonization of data fields but identification of the most useful types, formats and specifications for the data to be collected. Where identified as necessary to improve data quality, identification guides and field manuals will be enhanced and standardized. Specific tasks may include harmonization of longline observer data fields, data standards for electronic monitoring of bycatch and/or the identification of key data gaps (e.g.

See accompanying independent accountants' report on applying agreed-upon procedures.

fishing gear characteristics) and recommendations to remedy them. Beyond the collection and storage of appropriate bycatch data, this task will aim to demonstrate how basic calculated data fields (e.g. interaction rates, soak times or traded product conversion factors), can be produced as standardized building blocks for more complex assessments.

The third task will focus on synergizing new collaborations to add to the body of knowledge on all bycatch organisms. As one of the common stumbling blocks to analysis of bycatch data is their confidential nature, a workshop format is proposed under which owners will be allowed to maintain control of their data while the group jointly draws conclusions from a range of datasets. Workshop topics will be identified from the gaps emerging from the first and second tasks above but are expected to focus on mitigation issues including documenting rates of implementation, identifying optimal mitigation measures under varying conditions, and/or quantifying the actual effectiveness of particular mitigation measures across fleets and areas. Workshops are likely to be held in pairs with a data preparation session designed to focus on objectives and data quality/availability and a results and evaluation session designed to produce joint findings. It is anticipated that at least one workshop will be held in the Pacific and will focus on sharks. The inter-session period may be used to progress analyses of any unrestricted or summarized data. Each workshop will identify ways that the resulting information can be disseminated through BMIS to inform the drafting or amendment of bycatch-related CMMs.

3. Intermediate targets

The BMIS will be updated and re-designed to prepare it for holding new data (of existing types) and new types of data for all bycatch organisms. Key data gaps will be identified and remedied, and opportunities for harmonization across t-RFMOs will be identified, particularly for seabirds, sea turtles and cetaceans. Guidance for standardizing calculated data fields which can serve as building blocks for more complex assessments will be produced. New data will be sourced, including planning for workshops designed to generate new findings from data which are currently held on a confidential basis. All products will be loaded or linked in the BMIS to promote the development of more comprehensive and/or effective policies.

4. Why it is important for the entire project and the achievement of the outcomes

Expansion of the system to include a broader range of data will provide opportunities for a) the members of the Kobe TWG-Bycatch to develop specific recommendations, potentially in the form of new Conservation and Management Measures (CMMs) to harmonize data collection and improve bycatch management among the t-RFMOs; and b) focus the efforts of each t-RFMO on filling the most important data gaps hampering its effective bycatch mitigation and management.

5. Partners involved, roles and responsibilities in terms of supervision, coordination and implementation of the activities and monitoring

This work will be jointly led by SPC (Kobe TWG-Bycatch Chair) and WCPFC (the Technical Coordinator-Sharks and Bycatch). WCPFC will be responsible for leading Summary Tasks 1, 3 (building upon work conducted by the Kobe Technical Working Group-Bycatch) and 5, and for supervising Summary Tasks 2 and 4.

See accompanying independent accountants' report on applying agreed-upon procedures.

Summary Task 2 (update and improvement of the BMIS) will be led by SPC. It is expected that SPC will engage several consultant specialists in database design, mitigation information and website development as it did when developing the prototype BMIS. The BMIS is currently hosted by WCPFC but its long-term hosting situation should be reviewed as part of this project.

Summary Task 4 (hosting of regional workshops for analysis of confidentially-held bycatch data) will be led by SPC in its role as Chair of the Kobe Technical Working Group-Bycatch.

Organizing the venue and participants' invitations and travel will be conducted by SPC unless alternative alternatives (e.g. through the WCPFC Secretariat directly) prove to be more cost-effective. SPC will also provide scientific services to support the bycatch data analysis workshops. Experts assisting with the workshop analyses may either be SPC staff or consultants selected by WCPFC and SPC and contracted by SPC. This will depend on which workshop topics are chosen and whether SPC in-house staff are suitably qualified and available to help. T-RFMO bycatch coordinators will assist with identifying regional data needs, sources of information, harmonizing data formats, and any necessary permissions to use the data.

Summary Task 1: Collaborative arrangements and work planning (supported by Annex 3, line items 2-4)

- Introduce the project and consult on member, industry and NGO needs at each t-RFMO (in conjunction with Output 3.1.1 and Output 3.1.2)
- Key partners WCPFC, SPC and FAO to develop a project implementation plan for consultation at a ABNJ Tuna Project-Shark and Bycatch Consultative Committee meeting planned to be held in conjunction with the WCPFC Annual Meeting in December 2014. The Kobe TWG-Bycatch will be consulted in parallel.

Summary Task 2: Re-design of the Bycatch Mitigation Information System and update of existing information (supported by Annex 3, line items 21-24)

- Enter new information into the BMIS (Annex 3, line item 21);
- Develop new modules to store new types of information in the BMIS (Annex 3, line item 22);
- Enhance the BMIS interface for a range of users (e.g. some interfaces translated into key languages, more efficient screen appearance and flow), including new ways of displaying information such as mapping of spatial information (Annex 3, line item 23-24).

Summary Task 3: Harmonize and improve existing data fields, standards and quality and progress guidance and tools for calculated fields (supported by Annex 3, line item 28 and for sharks under Output 3.1.1 (Data Improvement), line items 8 & 10)

- Harmonize existing data fields and/or standardize the information being collected;
- Produce or advise on modified field guides and data collection manuals;
- Produce guidance and/or tools for calculating basic data fields for use in more complex analyses.

See accompanying independent accountants' report on applying agreed-upon procedures.

Summary Task 4: Hold at least two paired regional workshops (one Pacific, one non-Pacific; one shark, one non-shark) for joint analysis and evaluation of confidentially-held bycatch data (supported by Annex 3, line items 26-28)

- Plan for and hold the first data prep workshop in Year 2; the first findings workshop and the second data prep workshop in Year 3; and the second findings workshop in Year 4.
- Workshop topics, dates, locations and attendees will be identified at a later stage of the project.

Summary Task 5: Reporting to FAO Project Management Unit (supported by Annex 3, line items 2-4)

- Provide half-year progress reports for Jan-Jun and Jul-Dec for all years of the project.

See accompanying independent accountants' report on applying agreed-upon procedures.

WCPFC Staff Listing and Organization Chart

Professional Staff:

1. **Aaron Nighswander** (Finance & Administrative Manager) *
2. **Albert Carlot** (VMS Manager)
3. **Glenn Hurry** (Executive Director) *
4. **Karl Staisch** (Observer Program Coordinator)
5. **Lara Manarangi-Trott** (Compliance Manager)
6. **Samuelu Taufao** (ICT Manager)
7. **SungKwon Soh** (Science Manager)
8. **Anthony Beeching** (Assistant Manager – Science)

Support Staff:

1. **Albert Salomon** (ROP Data Control Technician)
2. **Arlene Takesy** (Executive Assistant)
3. **Donald David** (Data Quality Assistant)
4. **Glenn Jano** (Compliance Officer)
5. **Jeannie Marie Nanpei** (RFV Officer)
6. **Julio Mendez** (VMS Operations Officer)
7. **Lucille Martinez** (Administrative Officer) *
8. **Marleene Semens** (ROP Data Control Technician)
9. **Mercy Ringlen** (Secretary/Receptionist)
10. **Merisa Delcampo** (Finance Officer) *
11. **Milo Abello** (VMS Operations Officer)
12. **Murphy Paulis** (ROP Data Control Technician)
13. **Virginia Ezekias** (ROP Data Control Technician)

Janitors:

1. **Maria Victor**
2. **Mermihka Sohs**
3. **Rosalin George**

Gardeners:

1. **Bernardo Kohper**
2. **Kerion Dosalwa**
3. **Reynard Sibanz**

Maintenance:

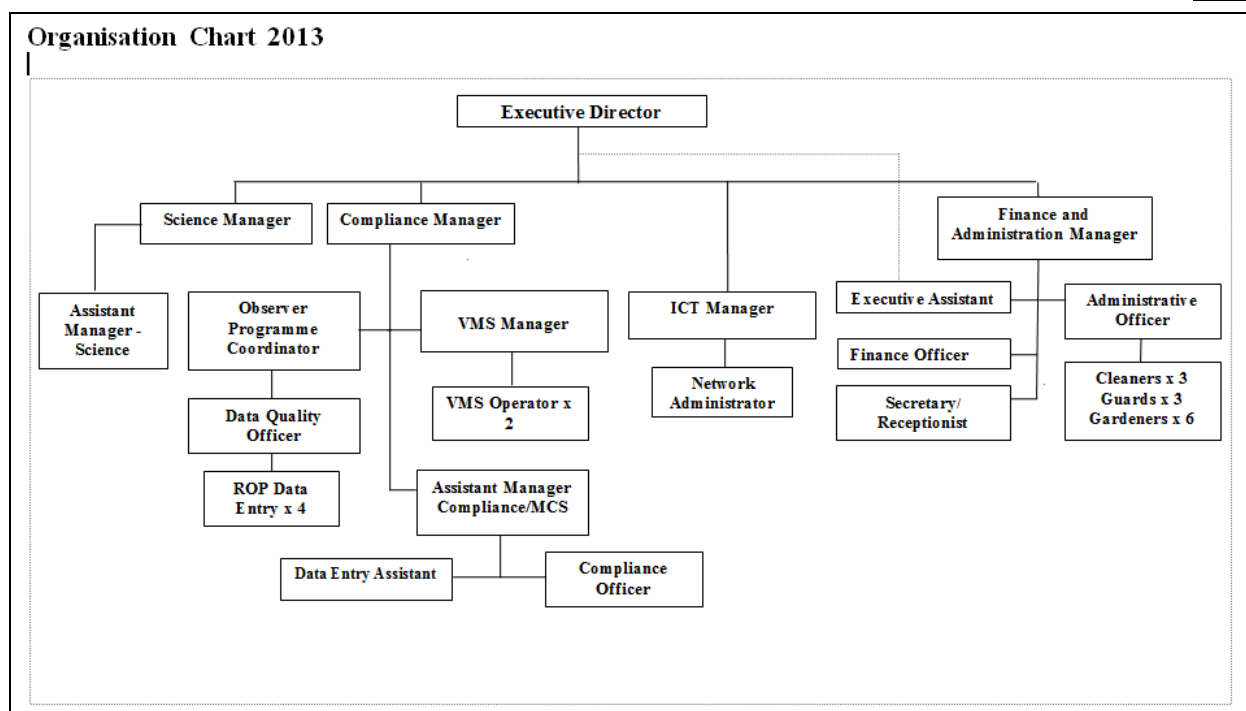
1. **Virgilio San Jose**

Security Guards:

1. **David Saimon**
2. **Depster Paul**
3. **Edward Dannis**
4. **Peter Welly**
5. **Spenson Norman**
6. **Bill Dakano**

* Key staff of FAO GEF Project

Total 34 staff



See accompanying independent accountants' report on applying agreed-upon procedures.

**COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY
MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN**

FINANCIAL REGULATIONS (updated December, 2013)

**REGULATION 1
APPLICABILITY**

1.1 These Regulations shall govern the financial administration of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (hereinafter referred to as “the Commission”) established under article 9 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (hereinafter referred to as “the Convention”).

**REGULATION 2
FINANCIAL YEAR**

2.1 The financial year shall be for 12 months, commencing 1 January and ending 31 December, both dates inclusive.

**REGULATION 3
THE BUDGET**

3.1 A draft budget comprising estimates of receipts by the Commission from all sources and of expenditures by the Commission shall be prepared by the Executive Director for the ensuing year.

3.2 The draft budget shall be divided into parts, sections and, as appropriate, programme support. It shall be accompanied by such information, annexes and explanatory statements as may be requested by the Commission, including a statement on the main changes in comparison with the budget of the previous year, and such further annexes or statements as the Executive Director may deem necessary and useful. The Commission may establish guidelines as to the format which the draft budget is to be presented.

3.3 The draft budget shall be accompanied by details of the appropriations made for the previous year and the expenditure against those appropriations.

3.4 The draft budget shall include a statement of the significant financial implications for subsequent financial years in respect of any proposed work programmes presented in terms of administrative, recurrent and capital expenditure.

3.5 The draft budget shall include an item specifying the costs required to finance the travel and subsistence for one representative from each developing State Party to the Convention and, where appropriate, territories and possessions, to each meeting of the Commission and to meetings of relevant subsidiary bodies of the Commission.

3.6 The Executive Director shall submit the draft budget for the following year to all members of the Commission at least 45 days prior to the annual meeting of the Commission. At

See accompanying independent accountants' report on applying agreed-upon procedures.

the same time, and in the same form as the draft budget, the Executive Director shall prepare and submit to all members of the Commission a forecast budget for the subsequent financial year.

3.7 The draft budget and the forecast budget shall be presented in United States dollars.

3.8 At each annual meeting, the Commission shall decide upon its annual budget. The Commission may establish, for this purpose, a committee to provide advice and recommendations to the Commission on matters related to the budget, finance and administration of the Commission.

3.9 Supplementary budget proposals may be prepared by the Executive Director if exceptional circumstances make this necessary. Supplementary budget proposals shall be prepared in a form consistent with the approved budget. The provisions of these Regulations shall be applicable to the proposed supplementary budget to the extent possible.

REGULATION 4 APPROPRIATIONS

4.1 The appropriations adopted by the Commission shall constitute an authorization for the Executive Director to incur obligations and make payments for the purposes for which the appropriations were adopted and up to the amounts so voted.

4.2 Appropriations shall be available for obligation during the financial year to which they relate. Available funds remaining at the end of the financial year will be applied to the working capital fund.

4.3 The Executive Director may authorize the transfer of up to 10 per cent of appropriations between sub-items of an item. The Chairman of the Commission may authorize the Executive Director to make transfers of up to 10 per cent of appropriations between items. All such transfers must be reported by the Executive Director to the next annual meeting of the Commission.

4.4 There shall be established a working capital fund for the purpose of accommodating normal operating expenditures prior to receipt of assessments from members of the Commission and to accommodate extenuating circumstances, as approved by the Commission. The source of monies for the working capital fund shall be any surplus appropriations to the annual budget and, if necessary, any voluntary advances made by members of the Commission. Any such voluntary advances made by a member of the Commission will, at the request of that member, be credited towards the annual assessed contribution of that member. Income derived from investments of the working capital fund shall be credited to miscellaneous income.

4.5 The Executive Director may incur obligations against the working capital fund when such obligations are necessary for the continued effective functioning of the Commission, provided such obligations are restricted to administrative requirements of a continuing nature not exceeding the scale of such requirements as authorized in the budget of the current financial year, until assessments are received from members of the Commission.

4.6 The Executive Director may also enter into obligations for future financial periods when such obligations are for programme activities which have been approved by the Commission and are expected to continue beyond the end of the current financial year.

See accompanying independent accountants' report on applying agreed-upon procedures.

4.7 The Commission shall prescribe the conditions under which unforeseen and extraordinary expenses may be incurred.

4.8 The Executive Director shall prudently manage the appropriations, taking into account the availability of cash balances. The Executive Director shall be accountable to the Commission for the proper management of the financial resources in accordance with these Regulations.

REGULATION 5
PROVISION OF FUNDS

5.1 The funds of the Commission shall include:

- (a) assessed contributions made by members of the Commission in accordance with article 18, paragraph 2, of the Convention;
- (b) voluntary contributions made by members or other entities;
- (c) the fund referred to in article 30, paragraph 3, of the Convention; and
- (d) such other funds to which the Commission may become entitled or may receive, including income from investments.

5.2 Each member of the Commission shall contribute to the budget in accordance with the following formula determined according to article 18, paragraph 2, of the Convention:

- (a) a 10 per cent base fee divided in equal shares between all members of the Commission;
- (b) (i) a 20 per cent national wealth component based upon an equal weighting of proportional gross national income (calculated on a three-year average) per capita and proportional gross national income (calculated on a three-year average);

(ii) notwithstanding paragraph 5.2(b)(i), the assessed contribution of small island developing State members of the Commission under this component of the budget shall not exceed USD .05 per capita. Any small island developing State member whose assessed contribution exceeds USD .05 per capita shall have the excess amount offset from the Fees and Charges Fund held by the Commission, provided that there are sufficient funds available in the Fees and Charges Fund; and
- (c) a 70 per cent fish production component based upon a three-year average of the total catches taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of all the stocks covered by the Convention for which data are available (including the main target tuna species, as well as the four main billfish species (black marlin, blue marlin, striped marlin and swordfish)), subject to a discount factor of 0.4 being applied to the catches taken within the EEZ of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. In the case of a member that has part of its EEZ inside the overlapping area, and is a member of the Inter-American Tropical Tuna Commission and contributes to the budgets of both IATTC and WCPFC, only 50% of catches made by its flag vessels in the overlap

See accompanying independent accountants' report on applying agreed-upon procedures.

area between the two Commissions shall be included in the calculation of a member's contribution based on catch.

Pending the receipt of such contributions, the appropriations may be financed from the working capital fund.

5.3 Each member of the Commission shall contribute to the budget in accordance with article 18, paragraph 2, of the Convention. Pending the receipt of such contributions, the appropriations may be financed from the working capital fund.

5.4 On approval of the budget for a financial year, the Executive Director shall send a copy thereof to all members of the Commission informing them of their contributions and requesting them to remit their contributions due.

5.5 Annual contributions shall be considered as due and payable in full within 60 days of the receipt of the communication of the Executive Director referred to in regulation 5.3 above, or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears. Interest shall be payable on such unpaid contributions at such rate as may be determined by the Commission.

5.6 Annual contributions shall be assessed and paid in United States dollars.

5.7 The Executive Director shall submit to each regular session of the Commission a report on the collection of annual assessed contributions from Members of the Commission, any voluntary contributions received, any investment income and other income received, and any advances made from the working capital fund.

5.8 Except in the first financial year, a new member of the Commission whose membership becomes effective during the first six months of the financial year shall be liable to pay the full amount of the annual contribution which would have been payable had it been a member of the Commission when assessments were made under article 18, paragraph 2, of the Convention. A new member whose membership becomes effective during the last six months of the financial year, shall be liable to pay half of the amount of the annual contribution referred to above. In the first financial year all members whose membership becomes effective during the first nine months of the year shall be liable to pay the full amount of the annual contributions. A member whose membership becomes effective during the last three months of the first financial year shall be liable to pay half the amount of the first financial contribution.

REGULATION 6 FUNDS

- 6.1 (a) There shall be established a General Account for the purpose of accounting for the income and expenditure of the Commission;
- (b) Contributions paid under Regulation 5.2, miscellaneous income and any advances made from the working capital fund to finance general administrative expenditure shall be credited to the General Account;

See accompanying independent accountants' report on applying agreed-upon procedures.

- (c) Any cash surplus in the General Account at the close of a financial year that is not required to meet undischarged commitments will be credited to the working capital fund in accordance with Regulation 4;
- (d) Advances made by members shall be carried over to the credit of the members which have made such advances.

6.2 Trust funds, reserve and special accounts may be established by the Executive Director and shall be reported to the Commission.

6.3 The purpose and limits of each trust fund, reserve and special account shall be clearly defined by the Commission. Unless otherwise provided by the Commission, such funds and accounts shall be administered in accordance with the present Regulations.

REGULATION 7 SPECIAL REQUIREMENTS FUND

7.1 A special requirements fund shall be established for the purposes identified in article 30 of the Convention, including:

- (a) assisting developing States Parties, small island developing State members of the Commission and, where appropriate, territories and possessions, with human resources development, technical assistance and transfer of technology in relation to conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries for such stocks; and
- (c) building capacity for activities in key areas such as effective exercise of flag State responsibilities, monitoring, control and surveillance, data collection and scientific research relevant to highly migratory fish stocks on a national and/or regional level.

7.2 The special requirements fund shall be financed from voluntary contributions and such other sources as the Commission may identify. The fund will be administered by the Executive Director, in accordance with the same financial controls as regular budget appropriations.

7.3 The Executive Director shall establish a process for notifying the members of the Commission annually of the level of available funds in the special requirements fund, which shall include a timeline and a format for the submission of applications for assistance.

7.4 In accordance with the provisions of article 30, paragraph 4, of the Convention, developing States Parties, particularly small island developing States and, where appropriate, territories and possessions, will be eligible to receive assistance from the special requirements fund.

7.5 Those eligible, in accordance with Regulation 7.4, may submit an application for assistance from the fund. An application may also be submitted by an appropriate subregional or regional organization or arrangement on behalf of one or more of those eligible. Any application should specify how it relates to the purposes identified in Regulation 7.1 and include a description of the desired outputs of the project or expenditure and an itemization of anticipated costs.

See accompanying independent accountants' report on applying agreed-upon procedures.

7.6 The Commission shall consider the applications for assistance. The Commission shall be guided by the purposes of the fund, the provisions of the Convention, the financial needs of the applicant and the availability of funds, with priority given to small island developing States and, where appropriate, territories and possessions. Assistance shall be provided on an impartial basis. Consideration of applications shall also include an assessment of whether any existing sources of assistance are available. Decisions by the Commission on assistance from the fund shall take into account the size of the fund and the need for cost-effectiveness.

7.7 The Executive Director shall submit an annual report to the Commission on the status of the fund, including a financial statement of contributions to and disbursements from the fund. Recipients of assistance shall be required to provide to the Executive Director a report on the purpose and outcome of each approved project and a summary of expenditures.

REGULATION 8 OTHER INCOME

8.1 All income other than contributions to the budget under Regulation 5 and that referred to in Regulation 8.3 below, shall be classified as miscellaneous income and credited to the General Account. The use of miscellaneous income shall be subject to the same financial controls as activities financed from regular budget appropriations.

8.2 Voluntary contributions above and beyond assessed contributions may be accepted by the Executive Director provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Commission. Voluntary contributions offered by non-members may be accepted, subject to agreement by the Commission that the purposes of the contribution are consistent with the policies, aims and activities of the Commission.

8.3 Voluntary contributions accepted for purposes specified by the donor shall be treated as trust or special funds under Regulations 6.2 and 6.3.

8.4 Moneys accepted in respect of which no purpose is specified shall be treated as miscellaneous income and reported as “gifts” in the accounts of the financial period.

REGULATION 9 CUSTODY AND INVESTMENT OF FUNDS

9.1 The Executive Director shall designate the bank or banks in which the funds of the Commission shall be kept and shall report the identity of the bank or banks so designated to the Commission.

9.2 (a) The Executive Director may make short-term investments of moneys not needed for the immediate requirements of the Commission. Such investments shall be restricted to securities and other investments issued under Government guarantee. The details of investment transactions and income derived shall be reported in the documents supporting the budget.

(b) With regard to moneys held in trust or special funds for which use is not required for at least 12 months, longer-term investments may be authorized by the Commission provided such action is consistent with the terms and conditions under which the moneys were lodged with the Commission.

REGULATION 10
INTERNAL CONTROL

Attachment B, Continued

10.1 The Executive Director shall:

- (a) establish detailed financial rules and procedures to ensure effective financial administration and the exercise of economy in the use of funds. These rules and procedures shall be brought to the Commission for its consideration;
- (b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the goods or services have been received and that payment has not previously been made;
- (c) designate in writing the officers who may receive moneys, incur obligations and make payments on behalf of the Commission;
- (d) maintain and be responsible for internal financial control to ensure:
 - (i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Commission;
 - (ii) the conformity of obligations and expenditures with the appropriations adopted by the Commission, or with the purposes and rules relating to trust and special funds; and
- (e) make every effort in the course of custodial and investment activity to avoid excessive transaction cost, minimize default and exchange rate risks and otherwise secure the economic use of the resources of the Commission.

10.2 No obligations shall be incurred until allotments or other appropriate authorizations have been made in writing under the authority of the Executive Director.

10.3 No payments shall be made to an employee unless the payments have been approved by an alternative staff member with the appropriate delegation(s) of authority.

10.4 The Executive Director may make such ex gratia payments as he or she deems to be necessary in the interest of the Commission, provided that a statement of such payments shall be submitted to the Commission with the accounts.

10.5 The Executive Director may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Auditor with the accounts together with the justifications attached thereto. Such losses shall be included in the annual accounts.

10.6 If the Financial Regulations are not being followed by the Executive Director, the Finance and Administrative Manager is required to report relevant cases to the Chair of the Commission.

10.7 Substantial purchases of equipment, supplies and other requirements as specified in the detailed financial rules and procedures shall normally be by tender, except:

See accompanying independent accountants' report on applying agreed-upon procedures.

- (a) where it has been ascertained that only a single supplier exists and that fact is so certified by the Executive Director;
- (b) in case of emergency, or where, for any other reason, these rules would not be in the best financial interests of the Commission and that fact is so certified by the Executive Director.

10.8 All transfers to governments shall be made in accordance with national law.

REGULATION 11 THE ACCOUNTS

11.1 The Executive Director shall ensure that appropriate records and accounts are kept of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of the Commission's moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

11.2 The Executive Director shall submit annual financial statements. The annual financial statements shall show, for the financial year to which they relate:

- (a) the income and expenditure relating to all funds and accounts;
- (b) the situation with regard to budget appropriations, including:
 - (i) the original budget appropriations;
 - (ii) the approved expenditure under or in excess of the original budget appropriations;
 - (iii) any other income;
 - (iv) the amounts charged against these appropriations and other income;
- (c) the financial assets and liabilities of the Commission;
- (d) investments;
- (e) losses of assets.

The Executive Director shall also give such other information as may be appropriate to indicate the financial position of the Commission.

11.3 The accounts of the Commission shall be presented in United States dollars. Accounting records may, however, be kept in such currency or currencies as the Executive Director may deem necessary.

11.4 Appropriate separate accounts shall be kept for all special, reserve and trust funds.

11.5 The annual financial statements shall be submitted by the Executive Director to the Auditor not later than 31 March following the end of the financial year.

REGULATION 12 EXTERNAL AUDIT

See accompanying independent accountants' report on applying agreed-upon procedures.

12.1 The Commission shall appoint an external auditor who shall be the Auditor-General or equivalent statutory authority from a member of the Commission or an internationally recognized independent auditor with experience in the audit of international organizations. The Auditor shall be appointed for a period of two years and may be reappointed. The Commission will ensure respect for the Auditor's independence of the Commission, any subsidiary bodies established under the Convention and the Commission's staff, and shall make provision for appropriate funds to the Auditor.

12.2 The Auditor shall be completely independent and solely responsible for the conduct of the audit.

12.3 The Auditor or a person or persons authorized by him or her shall be entitled at all reasonable times to full and free access to all accounts and records of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission and may make copies of or take extracts from any such accounts or records.

12.4 The Auditor shall conduct his or her examination of the financial statements in conformity with generally accepted auditing standards and shall report on all relevant matters, including:

- (a) whether, in his or her opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and the records;
- (c) whether, in his or her opinion, the income, expenditure and investment of moneys and the acquisition and disposal of assets by the Commission during the year have been in accordance with these Regulations; and
- (d) observations with respect to the efficiency and economy of the financial procedures and conduct of business, the accounting system, internal financial controls and the administration and management of the Commission.

12.5 The Executive Director shall provide the Auditor with the facilities he or she may require in the performance of the audit.

12.6 The Auditor shall, within 90 days of the date upon which the annual financial statements are submitted by the Executive Director, issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period, which shall include such information as the Auditor deems necessary with regard to matters referred to in Regulation 12.4 as appropriate. The Executive Director shall provide to the Commission a copy of the audit report and the audited financial statements within 30 days of their receipt.

12.7 The Commission may request the Auditor to perform certain specific examinations and issue separate reports on the results.

REGULATION 13 ACCEPTANCE OF ANNUAL FINANCIAL STATEMENTS

See accompanying independent accountants' report on applying agreed-upon procedures.

13.1 The Commission shall, following consideration of the audited annual financial statements and audit report submitted to it under Regulation 12.6 of these Regulations, signify its acceptance of the audited annual financial statements or take such other action as it may consider appropriate.

**REGULATION 14
INSURANCE**

14.1 The Commission may take out suitable insurance with a reputable financial institution against normal risks to its assets.

**REGULATION 15
GENERAL PROVISION**

15.1 These Regulations shall become effective on the date they are approved by the Commission and shall apply to the financial year 2006 and to subsequent financial periods. Subject to the provisions of the Convention, these Regulations may be amended by the Commission in accordance with the Rules of Procedure.

15.2 Where the Commission or any of its subsidiary bodies is considering matters which may lead to a decision which has significant financial or administrative implications, it shall have before it an evaluation of those implications from the Executive Director.

See accompanying independent accountants' report on applying agreed-upon procedures.

**COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY
MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN**

RULES OF PROCEDURE

TABLE OF CONTENTS

I. SESSIONS	4
Regular and special sessions	4
Holding of regular and special sessions.....	4
II. AGENDA	5
Regular sessions	5
Drawing up of the provisional agenda.....	5
Supplementary items	5
Special sessions	5
Drawing up of the provisional agenda.....	5
Regular and special sessions	6
Adoption of the agenda.....	6
III. REPRESENTATION	6
Representation	6
Official contact	6
IV. OFFICERS	6
Elections	6
Functions of the Chairman.....	7
Replacement of the Chairman or Vice-Chairman.....	7
V. SECRETARIAT	7
Duties of the Executive Director	7
Duties of the Secretariat	7
Report of the Executive Director on the work of the Commission.....	8
VI. CONDUCT OF PLENARY MEETINGS	8
Quorum	8
Open and closed meetings	8
Speeches	8
Statements by the Secretariat.....	9
Points of order	9
Procedural motions	9
Proposals and amendments.....	9
VII. DECISION-MAKING	10
Voting rights	10
Decision-making.....	10
Decisions requiring a consensus	10
Method of voting	11
Conduct during voting	11
Explanation of vote.....	11
Division of proposals and amendments	11
Order of voting on amendments	11
Order of voting on proposals	12
Taking decisions inter-sessionally	12
VIII. RULES OF PROCEDURE OF SUBSIDIARY BODIES	13
Rules of procedure	13
The Northern Committee.....	13

See accompanying independent accountants' report on applying agreed-upon procedures.

IX. REPORTS OF MEETINGS	13
Reports of meetings	13
X. SUSPENSION OF RIGHTS	14
Suspension of the exercise of voting rights	14
XI. PARTICIPATION BY TERRITORIES.....	14
Participation by territories	14
XII. OBSERVERS	14
Observers	14
XIII. AMENDMENTS	15
Method of amendment.....	15
ANNEX I.....	16
Rules of procedure relating to the Northern Committee	16
ANNEX II	17
Rules of procedure on the nature and extent of participation of territories	17

See accompanying independent accountants' report on applying agreed-upon procedures.

**WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION
(WCPFC)**

**STAFF REGULATIONS
2013 Edition
as adopted at the 2ND Annual Session,
Pohnpei, Federated States of Micronesia, 12-16 December 2005**

Table of Contents

PART I: SCOPE AND APPLICATION	5
Regulation 1: Scope and application	5
PART II: DEFINITIONS	5
Regulation 2: Definitions	5
PART III: DUTIES AND OBLIGATIONS	6
Regulation 3: Status as International Civil Servants	6
Regulation 4: Responsibility of the Commission	6
Regulation 5: Privileges and Immunities	6
Regulation 6: Disclosure of Information	7
Regulation 7: Conduct	7
Regulation 8: Outside Activities	7
Regulation 9: Candidacy for Public Office	7
Regulation 10: Acceptance of Honours, Decorations, Favours, Gifts or Fees	7
PART IV: APPOINTMENT AND PROMOTION	7
Regulation 11: Appointment of Executive Director and Staff	8
Executive Director - Exercise of Powers	8
Staff	8
Regulation 12: Appointment Policy	8
Regulation 13: Appointment Procedure	8
Regulation 14: Promotion	9
Regulation 15: Termination	9
Ways of Termination	9
Dispute Resolution	10
Seconded Staff	10
Notice of contract expiry or renewal	10
Letter of Service	11
Retention of Pay	11
PART V: ENTITLEMENTS ON APPOINTMENT AND TERMINATION	11
Regulation 16: Entitlements	11
Fares	11
Removal Expenses	11
Establishment Grant	11
Temporary Accommodation	11
Ineligibility	12
PART VI: HOURS OF WORK	12
Regulation 17: Normal Hours	12
Regulation : Overtime	12
Eligibility	12
Overtime Rates of Pay	12
Meal Allowance	12

See accompanying independent accountants' report on applying agreed-upon procedures.

Transport Assistance	12
PART VII: REMUNERATION	13
Regulation 19: Determination and Currency of Payment	13
Remuneration policy	13
Stabilization, Adjustment and Review	13
Regulation 20: Salaries.....	13
General	13
Salary on Appointment.....	13
Salary on Promotion.....	13
Increments	13
Performance bonus	14
PART VIII: ALLOWANCES AND RELATED BENEFITS.....	14
Regulation 21: Higher and Extra Duties Allowances.....	14
Regulation 22: Representational Allowance	14
Regulation 23: Professional Staff and Expatriate Allowances.....	14
School holiday travel.....	14
Home leave travel.....	14
Repatriation allowance	15
Education allowance.....	15
Regulation 24: Executive Director's Entitlements.....	16
PART IX: LEAVE	16
Regulation 25: Annual Leave.....	16
Regulation 26: Sick Leave.....	16
Regulation 27: Other Leave.....	17
Maternity Leave.....	17
Compassionate and Paternity Leave.....	17
Special Leave Without Pay	17
Examination Leave.....	18
PART X: HOUSING.....	18
Regulation 28: Eligibility	18
Housing Assistance	18
PART XI: EXPENSES.....	18
Regulation 29: Duty Travel	18
Per Diem.....	18
Actual and Reasonable Expense Reimbursement	18
Private Transport Expense Reimbursement	19
Official Entertainment.....	19
PART XII: DISCIPLINE	19
Regulation 30: Offences.....	19
Penalties.....	19
Procedures	20
Suspension.....	20
PART XIII: STAFF COMMITTEE	20
Regulation 31: Staff committee.....	20
PART XIV: GENERAL	20
Regulation 32: Insurance.....	20
Personal Accident.....	20
Medical Insurance	20
Travel Insurance	20
Life insurance	21
Regulation 33: Superannuation	21

Regulation 34: Protective Gear21
Regulation 35: Training.....21
Regulation 36: Documentation.....21
SCHEDULES.....22

See accompanying independent accountants' report on applying agreed-upon procedures.

11 August 2010

Dear Sir/Madam,

00071967 West Pacific East Asia Oceanic Fisheries Commission

Ref: 71967/2010/01-WCPFC

The United Nations Office for Project Services (hereinafter referred to as "UNOPS"), wishes to engage your **company [The Western and Central Pacific Fisheries Commission (WCPFC)]**, duly incorporated under the Laws of **Federated States of Micronesia** (hereinafter referred to as the "Consultant") in order to perform **consulting services in respect of building capacity in Indonesia, the Philippines and Vietnam to fully engage in regional initiatives to conserve and manage fisheries for highly migratory fish stocks** (hereinafter referred to as the "Services"), in accordance with the following Contract:

1 Contract Documents

- 1.1 This Contract is subject to the UNOPS General Conditions for Professional Services, attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Consultant and UNOPS also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
 - a) this letter;
 - b) the Statement of Work / Terms of Reference, attached hereto as Annex II;
 - c) Breakdown of the Costs, attached hereto as Annex III
- 1.3 All the above shall form the Contract between the Consultant and UNOPS, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2 Obligations of the Consultant

- 2.1 The Consultant shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.

See accompanying independent accountants' report on applying agreed-upon procedures.

2.2 The Consultant shall provide the services of the following **key personnel**, subject to change over the life of their contract with WCPFC:

Name	Specialization	Period of Service
SungKwon Soh	WPEA Project Manager	2010.1.6 – 2012.1.5
Ken Smithson (or WCPFC Finance and Administration Officer)	Finance and administration	Sporadic for duration of contract
Peter Flewwelling	Monitoring, control and surveillance area including monitoring of observer programme	Sporadic for duration of contract
Karl Staisch	WCPFC Regional Observer Programme Coordinator	Sporadic for duration of contract
Tony Lewis	WPEA Project coordinator – assist the Project Manager in implementing project activities (contract)	Sporadic for duration of contract

2.3 Any changes in the above key personnel shall require prior written approval of the Senior Portfolio Manager, Katrin Lichtenberg, EMO-IWC, UNOPS.

2.4 The Consultant shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

The Consultant shall submit to UNOPS the deliverables specified hereunder according to the following schedule:

Along with Annual Work Plan, WCPFC will provide

- 1) Quarterly Progress Report: after each quarter as scheduled by the UNDP
- 2) Annual Project Report: after each quarter as scheduled by the UNDP
- 3) Project Terminal Report: after the three year project period

Many project activities in the Annual Work Plan 2010 will produce Activity Report which will be compiled at WCPFC Secretariat and submitted as requested.

See accompanying independent accountants' report on applying agreed-upon procedures.

- 2.5 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Consultant by MAIL to the address specified in 9.1 below.
- 2.6 The Consultant represents and warrants the accuracy of any information or data provided to UNOPS for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

3 Price and Payment

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNOPS shall pay the Consultant a fixed contract price of **USD 855,844 Eight Hundred Fifty Five Thousand Eight Hundred Forty Four US Dollars**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Consultant in the performance of the Contract.
- 3.3 Payments effected by UNOPS to the Consultant shall be deemed neither to relieve the Consultant of its obligations under this Contract nor as acceptance by UNOPS of the Consultant's performance of the Services.
- 3.4 UNOPS shall effect payments on a sixth-month tranche basis to the Consultant after acceptance by UNOPS of the invoices submitted by the Consultant to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts. Annex IV describes the first year (2010) WPEA Project milestones of the project activities and relevant budget allocated to each activity.

See accompanying independent accountants' report on applying agreed-upon procedures.

Deliverables	Amount (USD)	Target date
1st Progress Report	40,000	Upon signature
2nd Progress Report including Annual Project Report	222,008	15 September 2010
3rd Progress Report including Annual Project Report	210,621	15 December 2010
4th Progress Report including Annual Project Report	70,207	15 June 2011
5th Progress Report including Annual Project Report	234,756	15 December 2011
6th Progress Report including Annual Project Report and Project Terminal Report	78,252	15 June 2012
TOTAL	855,844	

4 Special conditions

- 4.1 A detailed 2011 budget will be sent to UNOPS in December 2010. A detailed 2012 budget will be sent to UNOPS in December 2011.

5 Submission of invoices

- 5.1 An original invoice shall be submitted by mail by the Consultant for each payment under the Contract to the following address:

Katrin Lichtenberg, Sr. Portfolio Manager
 EMO/IWC
 UNOPS
 Midtermolen 3
 2100 Copenhagen, Denmark

If the Sr. Portfolio Manager or address changes, UNOPS will advise as soon as possible.

- 5.2 Invoices submitted by fax shall not be accepted by UNOPS.

6 Time and manner of payment

- 6.1 Invoices shall be paid within thirty (30) days of the date of their receipt and acceptance by UNOPS.

- 6.2 All payments shall be made by UNOPS to the following Bank account of the Consultant:

See accompanying independent accountants' report on applying agreed-upon procedures.

Account Beneficiary: Western and Central Pacific Fisheries Commission
Account number: #209-277442
Bank details: Bank of Guam
Branch: Kolonia, Pohnpei
Federated States of Micronesia
ABA: 1214-05115

7 Entry into force. Time limits.

- 7.1 The Contract shall enter into force upon its signature by both parties.
- 7.2 The Consultant shall commence the performance of the Services at the date of this contract and complete the Services within 36 months of such commencement.
- 7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8 Modifications

- 8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Consultant and Sr. Portfolio Manager, Katrin Lichtenberg, EMO-IWC UNOPS.

9 Notifications

- 9.1 For the purpose of notifications under the Contract, the addresses of UNOPS and the Consultant are as follows:

See accompanying independent accountants' report on applying agreed-upon procedures.

For the UNOPS:

Katrin Lichtenberg
Sr. Portfolio Manager IWC-EMO
UNOPS
Midtermolen 3
2100 Copenhagen, Denmark
Ref.: 61590/2010/01-WWF
Phone: 0045 3546 7623
Email: KatrinL@unops.org

For the Consultant:

SungKwon Soh
Science Manager/Interim Executive Director
Tuna Commission (WCPFC Secretariat)
P.O. Box 2356
Kolonia, Pohnpei 96941
Federated States of Micronesia
Phone: +691 320 1992
Email: sungkwon.soh@wcpfc.int

See accompanying independent accountants' report on applying agreed-upon procedures.

10 Good Faith

10.1 The Parties undertake to act in good faith with respect to each other's rights and obligations under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.


Yours sincerely,


Katrin Lichtenberg
Sr. Portfolio Manager
UNOPS
Andrew Menz
Deputy Regional Director
Europe and Middle East Office
UNOPS

For WCPFC

Agreed and Accepted:

Signature



Name SungKwon Soh

Title Science Manager/Interim Executive Director

Date

15 Sep. 2010

See accompanying independent accountants' report on applying agreed-upon procedures.

**CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGHLY
MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN**

The Contracting Parties to this Convention,

Determined to ensure the long-term conservation and sustainable use, in particular for human food consumption, of highly migratory fish stocks in the western and central Pacific Ocean for present and future generations,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 and 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,

Recognizing that, under the 1982 Convention and the Agreement, coastal States and States fishing in the region shall cooperate with a view to ensuring conservation and promoting the objective of optimum utilization of highly migratory fish stocks throughout their range,

Mindful that effective conservation and management measures require the application of the precautionary approach and the best scientific information available,

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

Recognizing the ecological and geographical vulnerability of the small island developing States, territories and possessions in the region, their economic and social dependence on highly migratory fish stocks, and their need for specific assistance, including financial, scientific and technological assistance, to allow them to participate effectively in the conservation, management and sustainable use of the highly migratory fish stocks,

Further recognizing that smaller island developing States have unique needs which require special attention and consideration in the provision of financial, scientific and technological assistance,

Acknowledging that compatible, effective and binding conservation and management measures can be achieved only through cooperation between coastal States and States fishing in the region,

Convinced that effective conservation and management of the highly migratory fish stocks of the western and central Pacific Ocean in their entirety may best be achieved through the establishment of a regional Commission,

Have agreed as follows:

**PART I
GENERAL PROVISIONS**

*Article 1
Use of terms*

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) “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;
- (c) “Commission” means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention;
- (d) “fishing” means:
 - (i) searching for, catching, taking or harvesting fish;

- (ii) attempting to search for, catch, take or harvest fish;
 - (iii) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish for any purpose;
 - (iv) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
 - (v) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transshipment;
 - (vi) use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in subparagraphs (i) to (v) except for emergencies involving the health and safety of the crew or the safety of a vessel;
- (e) “fishing vessel” means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels and any other vessel directly involved in such fishing operations;
- (f) “highly migratory fish stocks” means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine;
- (g) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Convention, including the authority to make decisions binding on its member States in respect of those matters;
- (h) “transshipment” means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

Article 2
Objective

The objective of this Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the 1982 Convention and the Agreement.

Article 3
Area of application

1. Subject to article 4, the area of competence of the Commission (hereinafter referred to as “the Convention Area”) comprises all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141° meridian of east longitude to its intersection with the 55° parallel of south latitude; thence due east along the 55° parallel of south latitude to its intersection with the 150° meridian of east longitude; thence due south along the 150° meridian of east longitude to its intersection with the 60° parallel of south latitude; thence due east along the 60° parallel of south latitude to its intersection with the 130° meridian of west longitude; thence due north along the 130° meridian of west longitude to its intersection with the 4° parallel of south latitude; thence due west along the 4° parallel of south latitude to its intersection with the 150° meridian of west longitude; thence due north along the 150° meridian of west longitude.

2. Nothing in this Convention shall constitute recognition of the claims or positions of any of the members of the Commission concerning the legal status and extent of waters and zones claimed by any such members.

3. This Convention applies to all stocks of highly migratory fish within the Convention Area except sauries. Conservation and management measures under this Convention shall be applied throughout the range of the stocks, or to specific areas within the Convention Area, as determined by the Commission.

See accompanying independent accountants’ report on applying agreed-upon procedures.

*Article 4**Relationship between this Convention and the 1982 Convention*

Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under the 1982 Convention and the Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the Agreement.

PART II**CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS***Article 5**Principles and measures for conservation and management*

In order to conserve and manage highly migratory fish stocks in the Convention Area in their entirety, the members of the Commission shall, in giving effect to their duty to cooperate in accordance with the 1982 Convention, the Agreement and this Convention:

- (a) adopt measures to ensure long-term sustainability of highly migratory fish stocks in the Convention Area and promote the objective of their optimum utilization;
- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States in the Convention Area, particularly small island developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) apply the precautionary approach in accordance with this Convention and all relevant internationally agreed standards and recommended practices and procedures;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
- (e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
- (f) protect biodiversity in the marine environment;
- (g) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
- (h) take into account the interests of artisanal and subsistence fishers;
- (i) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort, as well as information from national and international research programmes; and
- (j) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

*Article 6**Application of the precautionary approach*

- 1. In applying the precautionary approach, the members of the Commission shall:
 - (a) apply the guidelines set out in Annex II of the Agreement, which shall form an integral part of this Convention, and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
 - (b) take into account, *inter alia*, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distributions of fishing mortality and

See accompanying independent accountants' report on applying agreed-upon procedures.

the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(c) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans where necessary to ensure the conservation of such species and to protect habitats of special concern.

2. Members of the Commission shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. Members of the Commission shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event they are exceeded, members of the Commission shall, without delay, take the action determined under paragraph 1(a) to restore the stocks.

4. Where the status of target stocks or non-target or associated or dependent species is of concern, members of the Commission shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

5. For new or exploratory fisheries, members of the Commission shall adopt as soon as possible cautious conservation and management measures, including, *inter alia*, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

6. If a natural phenomenon has a significant adverse impact on the status of highly migratory fish stocks, members of the Commission shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impacts. Members of the Commission shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific information available.

Article 7

Implementation of principles in areas under national jurisdiction

1. The principles and measures for conservation and management enumerated in article 5 shall be applied by coastal States within areas under national jurisdiction in the Convention Area in the exercise of their sovereign rights for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks.

2. The members of the Commission shall give due consideration to the respective capacities of developing coastal States, in particular small island developing States, in the Convention Area to apply the provisions of articles 5 and 6 within areas under national jurisdiction and their need for assistance as provided for in this Convention.

Article 8

Compatibility of conservation and management measures

1. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of highly migratory fish stocks in their entirety. To this end, the members of the Commission have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks.

2. In establishing compatible conservation and management measures for highly migratory fish stocks in the Convention Area, the Commission shall:

(a) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(b) take into account:

See accompanying independent accountants' report on applying agreed-upon procedures.

- (i) the conservation and management measures adopted and applied in accordance with article 61 of the 1982 Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the Convention Area as a whole do not undermine the effectiveness of such measures;
 - (ii) previously agreed measures established and applied in respect of the same stocks for the high seas which form part of the Convention Area by relevant coastal States and States fishing on the high seas in accordance with the 1982 Convention and the Agreement;
- (c) take into account previously agreed measures established and applied in accordance with the 1982 Convention and the Agreement in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;
- (d) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and
- (e) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. The coastal State shall ensure that the measures adopted and applied by it to highly migratory fish stocks within areas under its national jurisdiction do not undermine the effectiveness of measures adopted by the Commission under this Convention in respect of the same stocks.

4. Where there are areas of high seas in the Convention Area entirely surrounded by the exclusive economic zones of members of the Commission, the Commission shall, in giving effect to this article, pay special attention to ensuring compatibility between conservation and management measures established for such high seas areas and those established in respect of the same stocks in accordance with article 61 of the 1982 Convention by the surrounding coastal States in areas under national jurisdiction.

PART III
COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH
STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN

SECTION 1. GENERAL PROVISIONS

Article 9
Establishment of the Commission

1. There is hereby established the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which shall function in accordance with the provisions of this Convention.

2. A fishing entity referred to in the Agreement, which has agreed to be bound by the regime established by this Convention in accordance with the provisions of Annex I, may participate in the work, including decision-making, of the Commission in accordance with the provisions of this article and Annex I.

3. The Commission shall hold an annual meeting. The Commission shall hold such other meetings as may be necessary to carry out its functions under this Convention.

4. The Commission shall elect a chairman and a vice-chairman from among the Contracting Parties, who shall be of different nationalities. They shall be elected for a period of two years and shall be eligible for re-election. The chairman and vice-chairman shall remain in office until the election of their successors.

5. The principle of cost-effectiveness shall apply to the frequency, duration and scheduling of meetings of the Commission and its subsidiary bodies. The Commission may, where appropriate, enter into contractual arrangements with relevant institutions to provide expert services necessary for the efficient functioning of the Commission and to enable it to carry out effectively its responsibilities under this Convention.

6. The Commission shall have international legal personality and such legal capacity as may be necessary to perform its functions and achieve its objectives. The privileges and immunities which the Commission and its officers shall enjoy in the territory of a Contracting Party shall be determined by agreement between the Commission and the member concerned.

See accompanying independent accountants' report on applying agreed-upon procedures.

7. The Contracting Parties shall determine the location of the headquarters of the Commission and shall appoint its Executive Director.

8. The Commission shall adopt, and amend as required, by consensus, rules of procedure for the conduct of its meetings, including meetings of its subsidiary bodies, and for the efficient exercise of its functions.

Article 10
Functions of the Commission

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, the functions of the Commission shall be to:

(a) determine the total allowable catch or total level of fishing effort within the Convention Area for such highly migratory fish stocks as the Commission may decide and adopt such other conservation and management measures and recommendations as may be necessary to ensure the long-term sustainability of such stocks;

(b) promote cooperation and coordination between members of the Commission to ensure that conservation and management measures for highly migratory fish stocks in areas under national jurisdiction and measures for the same stocks on the high seas are compatible;

(c) adopt, where necessary, conservation and management measures and recommendations for non-target species and species dependent on or associated with the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(d) adopt standards for collection, verification and for the timely exchange and reporting of data on fisheries for highly migratory fish stocks in the Convention Area in accordance with Annex I of the Agreement, which shall form an integral part of this Convention;

(e) compile and disseminate accurate and complete statistical data to ensure that the best scientific information is available, while maintaining confidentiality, where appropriate;

(f) obtain and evaluate scientific advice, review the status of stocks, promote the conduct of relevant scientific research and disseminate the results thereof;

(g) develop, where necessary, criteria for the allocation of the total allowable catch or the total level of fishing effort for highly migratory fish stocks in the Convention Area;

(h) adopt generally recommended international minimum standards for the responsible conduct of fishing operations;

(i) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement, including a vessel monitoring system;

(j) obtain and evaluate economic and other fisheries-related data and information relevant to the work of the Commission;

(k) agree on means by which the fishing interests of any new member of the Commission may be accommodated;

(l) adopt its rules of procedure and financial regulations and such other internal administrative regulations as may be necessary to carry out its functions;

(m) consider and approve the proposed budget of the Commission;

(n) promote the peaceful settlement of disputes; and

(o) discuss any question or matter within the competence of the Commission and adopt any measures or recommendations necessary for achieving the objective of this Convention.

2. In giving effect to paragraph 1, the Commission may adopt measures relating to, *inter alia*:

(a) the quantity of any species or stocks which may be caught;

(b) the level of fishing effort;

See accompanying independent accountants' report on applying agreed-upon procedures.

- (c) limitations of fishing capacity, including measures relating to fishing vessel numbers, types and sizes;
- (d) the areas and periods in which fishing may occur;
- (e) the size of fish of any species which may be taken;
- (f) the fishing gear and technology which may be used; and
- (g) particular subregions or regions.

3. In developing criteria for allocation of the total allowable catch or the total level of fishing effort the Commission shall take into account, *inter alia*:

- (a) the status of the stocks and the existing level of fishing effort in the fishery;
- (b) the respective interests, past and present fishing patterns and fishing practices of participants in the fishery and the extent of the catch being utilized for domestic consumption;
- (c) the historic catch in an area;
- (d) the needs of small island developing States, and territories and possessions, in the Convention Area whose economies, food supplies and livelihoods are overwhelmingly dependent on the exploitation of marine living resources;
- (e) the respective contributions of participants to conservation and management of the stocks, including the provision by them of accurate data and their contribution to the conduct of scientific research in the Convention Area;
- (f) the record of compliance by the participants with conservation and management measures;
- (g) the needs of coastal communities which are dependent mainly on fishing for the stocks;
- (h) the special circumstances of a State which is surrounded by the exclusive economic zones of other States and has a limited exclusive economic zone of its own;
- (i) the geographical situation of a small island developing State which is made up of non-contiguous groups of islands having a distinct economic and cultural identity of their own but which are separated by areas of high seas;
- (j) the fishing interests and aspirations of coastal States, particularly small island developing States, and territories and possessions, in whose areas of national jurisdiction the stocks also occur.

4. The Commission may adopt decisions relating to the allocation of the total allowable catch or the total level of fishing effort. Such decisions, including decisions relating to the exclusion of vessel types, shall be taken by consensus.

5. The Commission shall take into account the reports and any recommendations of the Scientific Committee and the Technical and Compliance Committee on matters within their respective areas of competence.

6. The Commission shall promptly notify all members of the measures and recommendations decided upon by the Commission and shall give due publicity to the conservation and management measures adopted by it.

Article 11 *Subsidiary bodies of the Commission*

1. There are hereby established as subsidiary bodies to the Commission a Scientific Committee and a Technical and Compliance Committee to provide advice and recommendations to the Commission on matters within their respective areas of competence.

2. Each member of the Commission shall be entitled to appoint one representative to each Committee who may be accompanied by other experts and advisers. Such representatives shall have appropriate qualifications or relevant experience in the area of competence of the Committee.

See accompanying independent accountants' report on applying agreed-upon procedures.

3. Each Committee shall meet as often as is required for the efficient exercise of its functions, provided that each Committee shall, in any event, meet prior to the annual meeting of the Commission and shall report to the annual meeting the results of its deliberations.

4. Each Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.

5. In the exercise of their functions, each Committee may, where appropriate, consult any other fisheries management, technical or scientific organization with competence in the subject matter of such consultation and may seek expert advice as required on an ad hoc basis.

6. The Commission may establish such other subsidiary bodies as it deems necessary for the exercise of its functions, including working groups for the purpose of examining technical issues relating to particular species or stocks and reporting thereon to the Commission.

7. The Commission shall establish a committee to make recommendations on the implementation of such conservation and management measures as may be adopted by the Commission for the area north of the 20° parallel of north latitude and on the formulation of such measures in respect of stocks which occur mostly in this area. The committee shall include the members situated in such area and those fishing in the area. Any member of the Commission not represented on the committee may send a representative to participate in the deliberations of the committee as an observer. Any extraordinary cost incurred for the work of the committee shall be borne by the members of the committee. The committee shall adopt recommendations to the Commission by consensus. In adopting measures in relation to particular stocks and species in such area, the decision of the Commission shall be based on any recommendations of the committee. Such recommendations shall be consistent with the general policies and measures adopted by the Commission in respect of the stocks or species in question and with the principles and measures for conservation and management set out in this Convention. If the Commission, in accordance with the rules of procedure for decision-making on matters of substance, does not accept the recommendation of the committee on any matter, it shall return the matter to the committee for further consideration. The committee shall reconsider the matter in the light of the views expressed by the Commission.

SECTION 2. SCIENTIFIC INFORMATION AND ADVICE

Article 12

Functions of the Scientific Committee

1. The Scientific Committee is established to ensure that the Commission obtains for its consideration the best scientific information available.

2. The functions of the Committee shall be to:

(a) recommend to the Commission a research plan, including specific issues and items to be addressed by the scientific experts or by other organizations or individuals, as appropriate, and identify data needs and coordinate activities that meet those needs;

(b) review the assessments, analyses, other work and recommendations prepared for the Commission by the scientific experts prior to consideration of such recommendations by the Commission and provide information, advice and comments thereon, as necessary;

(c) encourage and promote cooperation in scientific research, taking into account the provisions of article 246 of the 1982 Convention, in order to improve information on highly migratory fish stocks, non-target species, and species belonging to the same ecosystem or associated with or dependent upon such stocks in the Convention Area;

(d) review the results of research and analyses of target stocks or non-target or associated or dependent species in the Convention Area;

(e) report to the Commission its findings or conclusions on the status of target stocks or non-target or associated or dependent species in the Convention Area;

(f) in consultation with the Technical and Compliance Committee, recommend to the Commission the priorities and objectives of the regional observer programme and assess the results of that programme;

See accompanying independent accountants' report on applying agreed-upon procedures.

(g) make reports and recommendations to the Commission as directed, or on its own initiative, on matters concerning the conservation and management of and research on target stocks or non-target or associated or dependent species in the Convention Area; and

(h) perform such other functions and tasks as may be requested by or assigned to it by the Commission.

3. The Committee shall exercise its functions in accordance with such guidelines and directives as the Commission may adopt.

4. The representatives of the Oceanic Fisheries Programme of the Pacific Community and the Inter-American Tropical Tuna Commission, or their successor organizations, shall be invited to participate in the work of the Committee. The Committee may also invite other organizations or individuals with scientific expertise in matters related to the work of the Commission to participate in its meetings.

Article 13
Scientific services

1. The Commission, taking into account any recommendation of the Scientific Committee, may engage the services of scientific experts to provide information and advice on the fishery resources covered by this Convention and related matters that may be relevant to the conservation and management of those resources. The Commission may enter into administrative and financial arrangements to utilize scientific services for this purpose. In this regard, and in order to carry out its functions in a cost-effective manner, the Commission shall, to the greatest extent possible, utilize the services of existing regional organizations and shall consult, as appropriate, with any other fisheries management, technical or scientific organization with expertise in matters related to the work of the Commission.

2. The scientific experts may, as directed by the Commission:

- (a) conduct scientific research and analyses in support of the work of the Commission;
- (b) develop and recommend to the Commission and the Scientific Committee stock-specific reference points for the species of principal interest to the Commission;
- (c) assess the status of stocks against the reference points established by the Commission;
- (d) provide the Commission and the Scientific Committee with reports on the results of their scientific work, advice and recommendations in support of the formulation of conservation and management measures and other relevant matters; and
- (e) perform such other functions and tasks as may be required.

3. In carrying out their work, the scientific experts may:

- (a) undertake the collection, compilation and dissemination of fisheries data according to agreed principles and procedures established by the Commission, including procedures and policies relating to the confidentiality, disclosure and publication of data;
- (b) conduct assessments of highly migratory fish stocks, non-target species, and species belonging to the same ecosystem or associated with or dependent upon such stocks, within the Convention Area;
- (c) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
- (d) assess the potential effects of proposed changes in the methods or levels of fishing and of proposed conservation and management measures; and
- (e) investigate such other scientific matters as may be referred to them by the Commission.

4. The Commission may make appropriate arrangements for periodic peer review of scientific information and advice provided to the Commission by the scientific experts.

5. The reports and recommendations of the scientific experts shall be provided to the Scientific Committee and to the Commission.

SECTION 3. THE TECHNICAL AND COMPLIANCE COMMITTEE

Article 14

Functions of the Technical and Compliance Committee

1. The functions of the Technical and Compliance Committee shall be to:
 - (a) provide the Commission with information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures;
 - (b) monitor and review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary; and
 - (c) review the implementation of cooperative measures for monitoring, control, surveillance and enforcement adopted by the Commission and make such recommendations to the Commission as may be necessary.
2. In carrying out its functions, the Committee shall:
 - (a) provide a forum for exchange of information concerning the means by which they are applying the conservation and management measures adopted by the Commission on the high seas and complementary measures in waters under national jurisdiction;
 - (b) receive reports from each member of the Commission relating to measures taken to monitor, investigate and penalize violations of provisions of this Convention and measures adopted pursuant thereto;
 - (c) in consultation with the Scientific Committee, recommend to the Commission the priorities and objectives of the regional observer programme, when established, and assess the results of that programme;
 - (d) consider and investigate such other matters as may be referred to it by the Commission, including developing and reviewing measures to provide for the verification and validation of fisheries data;
 - (e) make recommendations to the Commission on technical matters such as fishing vessel and gear markings;
 - (f) in consultation with the Scientific Committee, make recommendations to the Commission on the fishing gear and technology which may be used;
 - (g) report to the Commission its findings or conclusions on the extent of compliance with conservation and management measures; and
 - (h) make recommendations to the Commission on matters relating to monitoring, control, surveillance and enforcement.
3. The Committee may establish, with the approval of the Commission, such subsidiary bodies as may be necessary for the performance of its functions.
4. The Committee shall exercise its functions in accordance with such guidelines and directives as the Commission may adopt.

SECTION 4. THE SECRETARIAT

Article 15

The Secretariat

1. The Commission may establish a permanent Secretariat consisting of an Executive Director and such other staff as the Commission may require.
2. The Executive Director shall be appointed for a term of four years and may be re-appointed for a further term of four years.
3. The Executive Director shall be the chief administrative officer of the Commission, and shall act in that capacity in all the meetings of the Commission and of any subsidiary body, and shall perform such other administrative functions as are entrusted to the Executive Director by the Commission.
4. The Secretariat functions shall include the following:

See accompanying independent accountants' report on applying agreed-upon procedures.

- (a) receiving and transmitting the Commission's official communications;
- (b) facilitating the compilation and dissemination of data necessary to accomplish the objective of this Convention;
- (c) preparing administrative and other reports for the Commission and the Scientific and Technical and Compliance Committees;
- (d) administering agreed arrangements for monitoring, control and surveillance and the provision of scientific advice;
- (e) publishing the decisions of and promoting the activities of the Commission and its subsidiary bodies; and
- (f) treasury, personnel and other administrative functions.

5. In order to minimize costs to the members of the Commission, the Secretariat to be established under this Convention shall be cost effective. The setting up and the functioning of the Secretariat shall, where appropriate, take into account the capacity of existing regional institutions to perform certain technical secretariat functions.

Article 16
The staff of the Commission

1. The staff of the Commission shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the functions of the Commission. The staff shall be appointed by the Executive Director.
2. The paramount consideration in the recruitment and employment of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable basis between the members of the Commission with a view to ensuring a broad-based Secretariat.

SECTION 5. FINANCIAL ARRANGEMENTS OF THE COMMISSION

Article 17
Funds of the Commission

1. The funds of the Commission shall include:
 - (a) assessed contributions in accordance with article 18, paragraph 2;
 - (b) voluntary contributions;
 - (c) the fund referred to in article 30, paragraph 3; and
 - (d) any other funds which the Commission may receive.
2. The Commission shall adopt, and amend as required, by consensus, financial regulations for the administration of the Commission and for the exercise of its functions.

Article 18
Budget of the Commission

1. The Executive Director shall draft the proposed budget of the Commission and submit it to the Commission. The proposed budget shall indicate which of the administrative expenses of the Commission are to be financed from the assessed contributions referred to in article 17, paragraph 1 (a), and which such expenses are to be financed from funds received pursuant to article 17, paragraphs 1 (b), (c) and (d). The Commission shall adopt the budget by consensus. If the Commission is unable to adopt a decision on the budget, the level of contributions to the administrative budget of the Commission shall be determined in accordance with the budget for the preceding year for the purposes of meeting the administrative expenses of the Commission for the following year until such time as a new budget can be adopted by consensus.
2. The amount of the contribution to the budget shall be determined in accordance with a scheme which the Commission shall adopt, and amend as required, by consensus. In adopting the scheme, due consideration

See accompanying independent accountants' report on applying agreed-upon procedures.

shall be given to each member being assessed an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The variable fee shall be based, *inter alia*, on the total catch taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. The scheme adopted by the Commission shall be set out in the financial regulations of the Commission.

3. If a contributor is in arrears in the payment of its financial contributions to the Commission it shall not participate in the taking of decisions by the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. Interest shall be payable on such unpaid contributions at such rate as may be determined by the Commission in its financial regulations. The Commission may, nevertheless, waive such interest payments and permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 19
Annual audit

The records, books and accounts of the Commission, including its annual financial statement, shall be audited annually by an independent auditor appointed by the Commission.

SECTION 6. DECISION-MAKING

Article 20
Decision-making

1. As a general rule, decision-making in the Commission shall be by consensus. For the purposes of this article, "consensus" means the absence of any formal objection made at the time the decision was taken.

2. Except where this Convention expressly provides that a decision shall be made by consensus, if all efforts to reach a decision by consensus have been exhausted, decisions by voting on questions of procedure shall be taken by a majority of those present and voting. Decisions on questions of substance shall be taken by a three-fourths majority of those present and voting provided that such majority includes a three-fourths majority of the members of the South Pacific Forum Fisheries Agency present and voting and a three-fourths majority of non-members of the South Pacific Forum Fisheries Agency present and voting and provided further that in no circumstances shall a proposal be defeated by two or fewer votes in either chamber. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Commission by consensus or by the majority required for decisions on questions of substance.

3. If it appears to the Chairman that all efforts to reach a decision by consensus have been exhausted, the Chairman shall fix a time during that session of the Commission for taking the decision by a vote. At the request of any representative, the Commission may, by a majority of those present and voting, defer the taking of a decision until such time during the same session as the Commission may decide. At that time, the Commission shall take a vote on the deferred question. This rule may be applied only once to any question.

4. Where this Convention expressly provides that a decision on a proposal shall be taken by consensus and the Chairman determines that there would be an objection to such proposal, the Commission may appoint a conciliator for the purpose of reconciling the differences in order to achieve consensus on the matter.

5. Subject to paragraphs 6 and 7, a decision adopted by the Commission shall become binding 60 days after the date of its adoption.

6. A member which has voted against a decision or which was absent during the meeting at which the decision was made may, within 30 days of the adoption of the decision by the Commission, seek a review of the decision by a review panel constituted in accordance with the procedures set out in Annex II to this Convention on the grounds that:

- (a) the decision is inconsistent with the provisions of this Convention, the Agreement or the 1982 Convention; or
- (b) the decision unjustifiably discriminates in form or in fact against the member concerned.

7. Pending the findings and recommendations of the review panel and any action required by the Commission, no member of the Commission shall be required to give effect to the decision in question.

8. If the review panel finds that the decision of the Commission need not be modified, amended or revoked, the decision shall become binding 30 days from the date of communication by the Executive Director of the findings and recommendations of the review panel.

9. If the review panel recommends to the Commission that the decision be modified, amended or revoked, the Commission shall, at its next annual meeting, modify or amend its decision in order to conform with the findings and recommendations of the review panel or it may decide to revoke the decision, provided that, if so requested in writing by a majority of the members, a special meeting of the Commission shall be convened within 60 days of the date of communication of the findings and recommendations of the review panel.

SECTION 7. TRANSPARENCY AND COOPERATION WITH OTHER ORGANIZATIONS

Article 21 Transparency

The Commission shall promote transparency in its decision-making processes and other activities. Representatives from intergovernmental organizations and non-governmental organizations concerned with matters relevant to the implementation of this Convention shall be afforded the opportunity to participate in the meetings of the Commission and its subsidiary bodies as observers or otherwise as appropriate. The rules of procedure of the Commission shall provide for such participation. The procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall be given timely access to pertinent information subject to the rules and procedures which the Commission may adopt.

Article 22 Cooperation with other organizations

1. The Commission shall cooperate, as appropriate, with the Food and Agriculture Organization of the United Nations and with other specialized agencies and bodies of the United Nations on matters of mutual interest.

2. The Commission shall make suitable arrangements for consultation, cooperation and collaboration with other relevant intergovernmental organizations, particularly those which have related objectives and which can contribute to the attainment of the objective of this Convention, such as the Commission for the Conservation of Antarctic Marine Living Resources, the Commission for the Conservation of Southern Bluefin Tuna, the Indian Ocean Tuna Commission and the Inter-American Tropical Tuna Commission.

3. Where the Convention Area overlaps with an area under regulation by another fisheries management organization, the Commission shall cooperate with such other organization in order to avoid the duplication of measures in respect of species in that area which are regulated by both organizations.

4. The Commission shall cooperate with the Inter-American Tropical Tuna Commission to ensure that the objective set out in article 2 of this Convention is reached. To that end, the Commission shall initiate consultation with the Inter-American Tropical Tuna Commission with a view to reaching agreement on a consistent set of conservation and management measures, including measures relating to monitoring, control and surveillance, for fish stocks that occur in the Convention Areas of both organizations.

5. The Commission may enter into relationship agreements with the organizations referred to in this article and with other organizations as may be appropriate, such as the Pacific Community and the South Pacific Forum Fisheries Agency, with a view to obtaining the best available scientific and other fisheries-related information to further the attainment of the objective of this Convention and to minimize duplication with respect to their work.

6. Any organization with which the Commission has entered into an arrangement or agreement under paragraphs 1, 2 and 5 may designate representatives to attend meetings of the Commission as observers in accordance with the rules of procedure of the Commission. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

See accompanying independent accountants' report on applying agreed-upon procedures.

PART IV
OBLIGATIONS OF MEMBERS OF THE COMMISSION

Article 23
Obligations of members of the Commission

1. Each member of the Commission shall promptly implement the provisions of this Convention and any conservation, management and other measures or matters which may be agreed pursuant to this Convention from time to time and shall cooperate in furthering the objective of this Convention.
2. Each member of the Commission shall:
 - (a) provide annually to the Commission statistical, biological and other data and information in accordance with Annex I of the Agreement and, in addition, such data and information as the Commission may require;
 - (b) provide to the Commission in the manner and at such intervals as may be required by the Commission, information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels in order to facilitate the compilation of reliable catch and effort statistics; and
 - (c) provide to the Commission at such intervals as may be required information on steps taken to implement the conservation and management measures adopted by the Commission.
3. The members of the Commission shall keep the Commission informed of the measures they have adopted for the conservation and management of highly migratory fish stocks in areas within the Convention Area under their national jurisdiction. The Commission shall circulate periodically such information to all members.
4. Each member of the Commission shall keep the Commission informed of the measures it has adopted for regulating the activities of fishing vessels flying its flag which fish in the Convention Area. The Commission shall circulate periodically such information to all members.
5. Each member of the Commission shall, to the greatest extent possible, take measures to ensure that its nationals, and fishing vessels owned or controlled by its nationals fishing in the Convention Area, comply with the provisions of this Convention. To this end, members of the Commission may enter into agreements with States whose flags such vessels are flying to facilitate such enforcement. Each member of the Commission shall, to the greatest extent possible, at the request of any other member, and when provided with the relevant information, investigate any alleged violation by its nationals, or fishing vessels owned or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

PART V
DUTIES OF THE FLAG STATE

Article 24
Flag State duties

1. Each member of the Commission shall take such measures as may be necessary to ensure that:
 - (a) fishing vessels flying its flag comply with the provisions of this Convention and the conservation and management measures adopted pursuant hereto and that such vessels do not engage in any activity which undermine the effectiveness of such measures; and
 - (b) fishing vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of any Contracting Party.
2. No member of the Commission shall allow any fishing vessel entitled to fly its flag to be used for fishing for highly migratory fish stocks in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member. A member of the Commission shall authorize the use of vessels flying its flag for fishing in the Convention Area beyond areas of national

See accompanying independent accountants' report on applying agreed-upon procedures.

jurisdiction only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention.

3. It shall be a condition of every authorization issued by a member of the Commission that the fishing vessel in respect of which the authorization is issued:

(a) conducts fishing within areas under the national jurisdiction of other States only where the fishing vessel holds any licence, permit or authorization that may be required by such other State; and

(b) is operated on the high seas in the Convention Area in accordance with the requirements of Annex III, the requirements of which shall also be established as a general obligation of all vessels operating pursuant to this Convention.

4. Each member of the Commission shall, for the purposes of effective implementation of this Convention, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.

5. Each member of the Commission shall provide annually to the Commission, in accordance with such procedures as may be agreed by the Commission, the information set out in Annex IV to this Convention with respect to each fishing vessel entered in the record required to be maintained under paragraph 4 and shall promptly notify the Commission of any modifications to such information.

6. Each member of the Commission shall also promptly inform the Commission of:

(a) any additions to the record;

(b) any deletions from the record by reason of:

(i) the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;

(ii) the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 2;

(iii) the fact that the fishing vessel concerned is no longer entitled to fly its flag;

(iv) the scrapping, decommissioning or loss of the fishing vessel concerned; and

(v) any other reason,

specifying which of the reasons listed above is applicable.

7. The Commission shall maintain its own record, based on the information provided to it pursuant to paragraphs 5 and 6, of fishing vessels referred to in paragraph 4. The Commission shall circulate periodically the information contained in such record to all members of the Commission, and, on request, individually to any member.

8. Each member of the Commission shall require its fishing vessels that fish for highly migratory fish stocks on the high seas in the Convention Area to use near real-time satellite position-fixing transmitters while in such areas. The standards, specifications and procedures for the use of such transmitters shall be established by the Commission, which shall operate a vessel monitoring system for all vessels that fish for highly migratory fish stocks on the high seas in the Convention Area. In establishing such standards, specifications and procedures, the Commission shall take into account the characteristics of traditional fishing vessels from developing States. The Commission, directly, and simultaneously with the flag State where the flag State so requires, or through such other organization designated by the Commission, shall receive information from the vessel monitoring system in accordance with the procedures adopted by the Commission. The procedures adopted by the Commission shall include appropriate measures to protect the confidentiality of information received through the vessel monitoring system. Any member of the Commission may request that waters under its national jurisdiction be included within the area covered by such vessel monitoring system.

9. Each member of the Commission shall require its fishing vessels that fish in the Convention Area in areas under the national jurisdiction of another member to operate near real-time satellite position-fixing transmitters in accordance with the standards, specification and procedures to be determined by the coastal State.

10. The members of the Commission shall cooperate to ensure compatibility between national and high seas vessel monitoring systems.

PART VI
COMPLIANCE AND ENFORCEMENT

Article 25
Compliance and enforcement

1. Each member of the Commission shall enforce the provisions of this Convention and any conservation and management measures issued by the Commission.

2. Each member of the Commission shall, at the request of any other member, and when provided with the relevant information, investigate fully any alleged violation by fishing vessels flying its flag of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

3. Each member of the Commission shall, if satisfied that sufficient evidence is available in respect of an alleged violation by a fishing vessel flying its flag, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned.

4. Each member of the Commission shall ensure that, where it has been established, in accordance with its laws, that a fishing vessel flying its flag has been involved in the commission of a serious violation of the provisions of this Convention or of any conservation and management measures adopted by the Commission, the vessel concerned ceases fishing activities and does not engage in such activities in the Convention Area until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with. Where the vessel concerned has conducted unauthorized fishing within areas under the national jurisdiction of any coastal State Party to this Convention, the flag State shall, in accordance with its laws, ensure that the vessel complies promptly with any sanctions which may be imposed by such coastal State in accordance with its national laws and regulations or shall impose appropriate sanctions in accordance with paragraph 7. For the purposes of this article, a serious violation shall include any of the violations specified in article 21, paragraphs 11 (a) to (h) of the Agreement and such other violations as may be determined by the Commission.

5. Each member of the Commission shall, to the extent permitted by its national laws and regulations, establish arrangements for making available to prosecuting authorities of other members evidence relating to alleged violations.

6. Where there are reasonable grounds for believing that a fishing vessel on the high seas has engaged in unauthorized fishing within an area under the national jurisdiction of a member of the Commission, the flag State of that vessel, at the request of the member concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the member concerned in taking appropriate enforcement action in such cases and may authorize the relevant authorities of such member to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the 1982 Convention.

7. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, *inter alia*, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

8. Each member shall transmit to the Commission an annual statement of compliance measures, including imposition of sanctions for any violations, it has taken in accordance with this article.

9. The provisions of this article are without prejudice to:

(a) the rights of any of the members of the Commission in accordance with their national laws and regulations relating to fisheries, including the right to impose appropriate sanctions on the vessel concerned in

respect of violations occurring within areas under national jurisdiction in accordance with such national laws and regulations; and

(b) the rights of any of the members of the Commission in relation to any provision relating to compliance and enforcement contained in any relevant bilateral or multilateral fisheries access agreement not inconsistent with the provisions of this Convention, the Agreement or the 1982 Convention.

10. Each member of the Commission, where it has reasonable grounds for believing that a fishing vessel flying the flag of another State has engaged in any activity that undermines the effectiveness of conservation and management measures adopted for the Convention Area, shall draw this to the attention of the flag State concerned and may, as appropriate, draw the matter to the attention of the Commission. To the extent permitted by its national laws and regulations it shall provide the flag State with full supporting evidence and may provide the Commission with a summary of such evidence. The Commission shall not circulate such information until such time as the flag State has had an opportunity to comment, within a reasonable time, on the allegation and evidence submitted, or to object as the case may be.

11. The members of the Commission may take action in accordance with the Agreement and international law, including through procedures adopted by the Commission for this purpose, to deter fishing vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures adopted by the Commission from fishing in the Convention Area until such time as appropriate action is taken by the flag State.

12. The Commission, when necessary, shall develop procedures which allow for non-discriminatory trade measures to be taken, consistent with the international obligations of the members of the Commission, on any species regulated by the Commission, against any State or entity whose fishing vessels fish in a manner which undermines the effectiveness of the conservation and management measures adopted by the Commission.

Article 26
Boarding and inspection

1. For the purposes of ensuring compliance with conservation and management measures, the Commission shall establish procedures for boarding and inspection of fishing vessels on the high seas in the Convention Area. All vessels used for boarding and inspection of fishing vessels on the high seas in the Convention Area shall be clearly marked and identifiable as being on government service and authorized to undertake high seas boarding and inspection in accordance with this Convention.

2. If, within two years of the entry into force of this Convention, the Commission is not able to agree on such procedures, or on an alternative mechanism which effectively discharges the obligations of the members of the Commission under the Agreement and this Convention to ensure compliance with the conservation and management measures established by the Commission, articles 21 and 22 of the Agreement shall be applied, subject to paragraph 3, as if they were part of this Convention and boarding and inspection of fishing vessels in the Convention Area, as well as any subsequent enforcement action, shall be conducted in accordance with the procedures set out therein and such additional practical procedures as the Commission may decide are necessary for the implementation of articles 21 and 22 of the Agreement.

3. Each member of the Commission shall ensure that fishing vessels flying its flag accept boarding by duly authorized inspectors in accordance with such procedures. Such duly authorized inspectors shall comply with the procedures for boarding and inspection.

Article 27
Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the fishing vessels of any State.

2. Whenever a fishing vessel of a member of the Commission voluntarily enters a port or offshore terminal of another member, the port State may, inter alia, inspect documents, fishing gear and catch on board such fishing vessel.

3. Members of the Commission may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.

4. Nothing in this article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.

PART VII
REGIONAL OBSERVER PROGRAMME AND REGULATION OF TRANSHIPMENT

Article 28

Regional observer programme

1. The Commission shall develop a regional observer programme to collect verified catch data, other scientific data and additional information related to the fishery from the Convention Area and to monitor the implementation of the conservation and management measures adopted by the Commission.

2. The observer programme shall be coordinated by the Secretariat of the Commission, and shall be organized in a flexible manner which takes into account the nature of the fishery and other relevant factors. In this regard, the Commission may enter into contracts for the provision of the regional observer programme.

3. The regional observer programme shall consist of independent and impartial observers authorized by the Secretariat of the Commission. The programme should be coordinated, to the maximum extent possible, with other regional, subregional and national observer programmes.

4. Each member of the Commission shall ensure that fishing vessels flying its flag in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the regional observer programme, if required by the Commission.

5. The provisions of paragraph 4 shall apply to vessels fishing exclusively on the high seas in the Convention Area, vessels fishing on the high seas and in waters under the jurisdiction of one or more coastal States, and vessels fishing in waters under the jurisdiction of two or more coastal States. When a vessel is operating on the same fishing trip both in waters under the national jurisdiction of its flag State and in the adjacent high seas, an observer placed under the regional observer programme shall not undertake any of the activities specified in paragraph 6 (e) when the vessel is in waters under the national jurisdiction of its flag State, unless the flag State of the vessel agrees otherwise.

6. The regional observer programme shall operate in accordance with the following guidelines and under the conditions set out in article 3 of Annex III of this Convention:

(a) the programme shall provide a sufficient level of coverage to ensure that the Commission receives appropriate data and information on catch levels and related matters within the Convention Area, taking into account the characteristics of the fisheries;

(b) each member of the Commission shall be entitled to have its nationals included in the programme as observers;

(c) observers shall be trained and certified in accordance with uniform procedures to be approved by the Commission;

(d) observers shall not unduly interfere with the lawful operations of the vessel and, in carrying out their functions, they shall give due consideration to the operational requirements of the vessel and shall communicate regularly with the captain or master for this purpose;

(e) the activities of observers shall include collecting catch data and other scientific data, monitoring the implementation of conservation and management measures adopted by the Commission and reporting of their findings in accordance with procedures to be developed by the Commission;

(f) the programme shall be cost effective, shall avoid duplication with existing regional, subregional and national observer programmes, and shall, to the extent practicable, seek to minimize disruption to the operations of vessels fishing in the Convention Area;

(g) a reasonable period of notice of the placement of an observer shall be given.

7. The Commission shall develop further procedures and guidelines for the operation of the regional observer programme, including:

(a) to ensure the security of non-aggregated data and other information which the Commission deems to be of a confidential nature;

(b) for the dissemination of data and information collected by observers to the members of the Commission;

(c) for boarding of observers which clearly define the rights and responsibilities of the captain or master of the vessel and the crew when an observer is on board a vessel, as well as the rights and responsibilities of observers in the performance of their duties.

8. The Commission shall determine the manner in which the costs of the observer programme would be defrayed.

Article 29
Transshipment

1. In order to support efforts to ensure accurate reporting of catches, the members of the Commission shall encourage their fishing vessels, to the extent practicable, to conduct transshipment in port. A member may designate one or more of its ports as transshipment ports for the purposes of this Convention, and the Commission shall circulate periodically to all members a list of such designated ports.

2. Transshipment at a port or in an area within waters under the national jurisdiction of a member of the Commission shall take place in accordance with applicable national laws.

3. The Commission shall develop procedures to obtain and verify data on the quantity and species transhipped both in port and at sea in the Convention Area and procedures to determine when transshipment covered by this Convention has been completed.

4. Transshipment at sea in the Convention Area beyond areas under national jurisdiction shall take place only in accordance with the terms and conditions set out in article 4 of Annex III to this Convention, and any procedures established by the Commission pursuant to paragraph 3 of this article. Such procedures shall take into account the characteristics of the fishery concerned.

5. Notwithstanding paragraph 4 above, and subject to specific exemptions which the Commission adopts in order to reflect existing operations, transshipment at sea by purse-seine vessels operating within the Convention Area shall be prohibited.

PART VIII
REQUIREMENTS OF DEVELOPING STATES

Article 30
Recognition of the special requirements of developing States

1. The Commission shall give full recognition to the special requirements of developing States Parties to this Convention, in particular small island developing States, and of territories and possessions, in relation to conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries for such stocks.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for highly migratory fish stocks, the Commission shall take into account the special requirements of developing States Parties, in particular small island developing States, and of territories and possessions, in particular:

(a) the vulnerability of developing States Parties, in particular small island developing States, which are dependent on the exploitation of marine living resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and fishworkers, as well as indigenous people in developing States Parties, particularly small island developing States Parties, and territories and possessions; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States Parties, and territories and possessions.

3. The Commission shall establish a fund to facilitate the effective participation of developing States Parties, particularly small island developing States, and, where appropriate, territories and possessions, in the work of the Commission, including its meetings and those of its subsidiary bodies. The financial regulations of the Commission shall include guidelines for the administration of the fund and criteria for eligibility for assistance.

4. Cooperation with developing States, and territories and possessions, for the purposes set out in this article may include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services. Such assistance shall, *inter alia*, be directed towards:

(a) improved conservation and management of highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

PART IX PEACEFUL SETTLEMENT OF DISPUTES

Article 31 Procedures for the settlement of disputes

The provisions relating to the settlement of disputes set out in Part VIII of the Agreement apply, *mutatis mutandis*, to any dispute between members of the Commission, whether or not they are also Parties to the Agreement.

PART X NON-PARTIES TO THIS CONVENTION

Article 32 Non-parties to this Convention

1. Each member of the Commission shall take measures consistent with this Convention, the Agreement and international law to deter the activities of vessels flying the flags of non-parties to this Convention which undermine the effectiveness of conservation and management measures adopted by the Commission.

2. The members of the Commission shall exchange information on the activities of fishing vessels flying the flags of non-parties to this Convention which are engaged in fishing operations in the Convention Area.

3. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels flying its flag which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

4. The members of the Commission shall, individually or jointly, request non-parties to this Convention whose vessels fish in the Convention Area to cooperate fully in the implementation of conservation and management measures adopted by the Commission with a view to ensuring that such measures are applied to all fishing activities in the Convention Area. Such cooperating non-parties to this Convention shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with, and their record of compliance with, conservation and management measures in respect of the relevant stocks.

5. Non-parties to this Convention, may, upon request and subject to the concurrence of the members of the Commission and to the rules of procedure relating to the granting of observer status, be invited to attend meetings of the Commission as observers.

See accompanying independent accountants' report on applying agreed-upon procedures.

**PART XI
GOOD FAITH AND ABUSE OF RIGHTS**

*Article 33
Good faith and abuse of rights*

The obligations assumed under this Convention shall be fulfilled in good faith and the rights recognized in this Convention shall be exercised in a manner which would not constitute an abuse of right.

**PART XII
FINAL PROVISIONS**

*Article 34
Signature, ratification, acceptance, approval*

1. This Convention shall be open for signature by Australia, Canada, China, Cook Islands, Federated States of Micronesia, Fiji Islands, France, Indonesia, Japan, Republic of Kiribati, Republic of the Marshall Islands, Republic of Nauru, New Zealand, Niue, Republic of Palau, Independent State of Papua New Guinea, Republic of the Philippines, Republic of Korea, Independent State of Samoa, Solomon Islands, Kingdom of Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland in respect of Pitcairn, Henderson, Ducie and Oeno Islands, United States of America and Republic of Vanuatu and shall remain open for signature for twelve months from the fifth day of September 2000.

2. This Convention is subject to ratification, acceptance or approval by the signatories.
3. Instruments of ratification, acceptance or approval shall be deposited with the depositary.
4. Each Contracting Party shall be a member of the Commission established by this Convention.

*Article 35
Accession*

1. This Convention shall remain open for accession by the States referred to in article 34, paragraph 1, and by any entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area.

2. After the entry into force of this Convention, the Contracting Parties may, by consensus, invite other States and regional economic integration organizations, whose nationals and fishing vessels wish to conduct fishing for highly migratory fish stocks in the Convention Area to accede to this Convention.

3. Instruments of accession shall be deposited with the depositary.

*Article 36
Entry into force*

1. This Convention shall enter into force 30 days after the deposit of instruments of ratification, acceptance, approval or accession by:

- (a) three States situated north of the 20° parallel of north latitude; and
- (b) seven States situated south of the 20° parallel of north latitude.

2. If, within three years of its adoption, this Convention has not been ratified by three of the States referred to in paragraph 1 (a), this Convention shall enter into force six months after the deposit of the thirteenth instrument of ratification, acceptance, approval or accession or in accordance with paragraph 1, whichever is the earlier.

3. For each State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area, or regional economic integration organization which ratifies, formally confirms, accepts or approves the Convention or accedes thereto after the entry into force of this Convention, this Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification, formal confirmation, acceptance, approval or accession.

Article 37
Reservations and exceptions

No reservations or exceptions may be made to this Convention.

Article 38
Declarations and statements

Article 37 does not preclude a State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area, or regional economic integration organization, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State, entity or regional economic integration organization.

Article 39
Relation to other agreements

This Convention shall not alter the rights and obligations of Contracting Parties, and fishing entities referred to in article 9, paragraph 2, which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.

Article 40
Amendment

1. Any member of the Commission may propose amendments to this Convention to be considered by the Commission. Any such proposal shall be made by written communication addressed to the Executive Director at least 60 days before the meeting of the Commission at which it is to be considered. The Executive Director shall promptly circulate such communication to all members of the Commission.

2. Amendments to this Convention shall be considered at the annual meeting of the Commission unless a majority of the members request a special meeting to consider the proposed amendment. A special meeting may be convened on not less than 60 days notice. Amendments to this Convention shall be adopted by consensus. The text of any amendment adopted by the Commission shall be transmitted promptly by the Executive Director to all members of the Commission.

3. Amendments to this Convention shall enter into force for the Contracting Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by a majority of Contracting Parties. Thereafter, for each Contracting Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41
Annexes

1. The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes to this Convention may be revised from time to time and any member of the Commission may propose revisions to an Annex. Notwithstanding the provisions of article 40, if a revision to an Annex is adopted by consensus at a meeting of the Commission, it shall be incorporated in this Convention and shall take effect from the date of its adoption or from such other date as may be specified in the revision.

Article 42
Withdrawal

1. A Contracting Party may, by written notification addressed to the depositary, withdraw from this Convention and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the withdrawal. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

See accompanying independent accountants' report on applying agreed-upon procedures.

2. Withdrawal from this Convention by a Contracting Party shall not affect the financial obligations of such member incurred prior to its withdrawal becoming effective.

3. Withdrawal from this Convention by a Contracting Party shall not in any way affect the duty of such member to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 43
Participation by territories

1. The Commission and its subsidiary bodies shall be open to participation, with the appropriate authorization of the Contracting Party having responsibility for its international affairs, to each of the following:

American Samoa
French Polynesia
Guam
New Caledonia
Northern Mariana Islands
Tokelau
Wallis and Futuna

2. The nature and extent of such participation shall be provided for by the Contracting Parties in separate rules of procedure of the Commission, taking into account international law, the distribution of competence on matters covered by this Convention and the evolution in the capacity of such territory to exercise rights and responsibilities under this Convention.

3. Notwithstanding paragraph 2, all such participants shall be entitled to participate fully in the work of the Commission, including the right to be present and to speak at the meetings of the Commission and its subsidiary bodies. In the performance of its functions, and in taking decisions, the Commission shall take into account the interests of all participants.

Article 44
Depositary

The Government of New Zealand shall be the depositary of this Convention and any amendments or revisions thereto. The depositary shall register this Convention with the Secretary-General of the United Nations in accordance with article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE at Honolulu this fifth day of September, two thousand, in a single original.

See accompanying independent accountants' report on applying agreed-upon procedures.

ANNEX I. FISHING ENTITIES

1. After the entry into force of this Convention, any fishing entity whose vessels fish for highly migratory fish stocks in the Convention Area, may, by a written instrument delivered to the depositary, agree to be bound by the regime established by this Convention. Such agreement shall become effective thirty days following the delivery of the instrument. Any such fishing entity may withdraw such agreement by written notification addressed to the depositary. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. Such fishing entity shall participate in the work of the Commission, including decision-making, and shall comply with the obligations under this Convention. References thereto by the Commission or members of the Commission include, for the purposes of this Convention, such fishing entity as well as Contracting Parties.
3. If a dispute concerning the interpretation or application of this Convention involving a fishing entity cannot be settled by agreement between the parties to the dispute, the dispute shall, at the request of either party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.
4. The provisions of this Annex relating to participation by fishing entities are solely for the purposes of this Convention.

ANNEX II. REVIEW PANEL

1. In accordance with article 20, paragraph 6, an application for review of a decision of the Commission shall be submitted within 30 days of the adoption of the decision by written notification to the Executive Director. Such notification shall be accompanied by a statement of the grounds upon which the review is sought. The Executive Director shall circulate copies of the notification and the accompanying statement to all members of the Commission.
2. The review panel shall be constituted as follows:
 - (a) The review panel shall consist of three members appointed in accordance with this Annex from the list of experts in the field of fisheries drawn up and maintained by the Food and Agriculture Organization of the United Nations pursuant to Annex VIII, article 2, of the 1982 Convention or a similar list maintained by the Executive Director;
 - (b) The member of the Commission submitting the application for review (“the applicant”) shall appoint one member, who may or may not be its national. The appointment shall be included in the written notification referred to in paragraph 1;
 - (c) Where more than one member of the Commission is seeking review of the same decision, such members shall, within 20 days of receipt of the first notification submitted, appoint one member of the panel jointly by agreement, irrespective of the grounds upon which review is sought by each applicant. If the members concerned are unable to reach agreement on the appointment, the appointment shall be made in accordance with subparagraph (f), at the request of any such member;
 - (d) The chairman of the Commission shall, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, appoint one member;
 - (e) The other member shall be appointed by agreement between the member or members of the Commission seeking the review and the chairman of the Commission. They shall appoint the President of the review panel from among those three members. If, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, the member or members seeking the review and the chairman of the Commission are unable to reach agreement on the appointment of one or more members of the panel to be appointed by agreement, or on the appointment of the President of the review panel, the remaining appointment or appointments shall be made in accordance with subparagraph (f), at the request of any party. Such request shall be made within 10 days of the expiration of the aforementioned 20 day period;

(f) Unless the parties agree that any appointment under subparagraphs (c), (d) and (e) of this paragraph be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments.

(g) Any vacancy shall be filled in the manner described for the initial appointment.

3. A hearing shall be convened at a place and on a date to be determined by the panel within 30 days following the constitution of the review panel.

4. The review panel shall determine its own procedures, providing for the expeditious conduct of the hearing and assuring to the applicant or applicants full opportunity to be heard and to present its or their case.

5. The Executive Director shall act on behalf of the Commission and shall provide the review panel with sufficient information to enable it to understand the basis upon which the decision was made.

6. Any member of the Commission may submit a memorandum to the review panel concerning the matter under review and the panel shall allow any such member full opportunity to be heard.

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 applicant or, if there is more than one applicant, divided equally among the applicants; and

(b) 30 per cent shall be borne by the Commission from its annual budget.

8. Any decision of the review panel shall be taken by a majority of its members.

9. If the applicant or, where there is more than one applicant, any one of them, does not appear before the review panel, the panel may continue the proceedings and make its findings and recommendations. Absence of an applicant shall not constitute a bar to the review proceedings.

10. The findings and recommendations of the review panel shall be confined to the subject matter of the application and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the finding. Any member of the panel may attach a separate or dissenting opinion to the finding. The review panel shall not, however, substitute its decision for that of the Commission. The panel shall communicate its findings and recommendations, including its reasons, to the applicant or applicants and the Executive Director within 30 days of the end of the hearing. The Executive Director shall circulate copies of the review panel's findings and recommendations and reasons therefor to all members of the Commission.

ANNEX III. TERMS AND CONDITIONS FOR FISHING

Article 1 Introductory

The operator of every fishing vessel authorized to be used for fishing in the Convention Area shall comply with the following terms and conditions at all times when the vessel is in the Convention Area. Such terms and conditions shall apply in addition to any terms and conditions which may apply to the vessel in areas under the national jurisdiction of a member of the Commission by reason of a licence issued by such member or pursuant to a bilateral or multilateral fisheries agreement. For the purposes of this Annex, "operator" means any person who is in charge of, directs or controls a fishing vessel, including the owner, master or charterer.

Article 2 Compliance with national laws

The operator of the vessel shall comply with the applicable national laws of each coastal State Party to this Convention in whose jurisdiction it enters and shall be responsible for the compliance by the vessel and its crew with such laws and the vessel shall be operated in accordance with such laws.

Article 3
Obligations of the operator in respect of observers

1. The operator and each member of the crew shall allow and assist any person identified as an observer under the regional observer programme to:
 - (a) embark at a place and time agreed to;
 - (b) have full access to and use of all facilities and equipment on board which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records including its logs and documentation for the purpose of records inspection and copying, reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing;
 - (c) remove samples;
 - (d) disembark at an agreed place and time; and
 - (e) carry out all duties safely.
2. The operator or any crew member shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with observers in the performance of their duties.
3. The operator shall provide the observer, while on board the vessel, at no expense to the observer or the observer's government, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.

Article 4
Regulation of transshipment

1. The operator shall comply with any procedures established by the Commission to verify the quantity and species transhipped, and any additional procedures and measures established by the Commission with respect to transshipment in the Convention Area.
2. The operator shall allow and assist any person authorized by the Commission or by the member of the Commission in whose designated port or area a transshipment takes place to have full access to and use of facilities and equipment which such authorized person may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying. The operator shall also allow and assist any such authorized person to remove samples and gather any other information required to fully monitor the activity. The operator or any member of the crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with any such authorized person in the performance of such person's duties. Every effort should be made to ensure that any disruption to fishing operations is minimized during inspections of transshipments.

Article 5
Reporting

The operator shall record and report vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with the standards for collection of such data set out in Annex I of the Agreement.

Article 6
Enforcement

1. The authorization issued by the flag State of the vessel and, if applicable, any licence issued by a coastal State Party to this Convention, or a duly certified copy, facsimile or telex confirmation thereof, shall be carried on board the vessel at all times and produced at the request of an authorized enforcement official of any member of the Commission.
2. The master and each member of the crew of the vessel shall immediately comply with every instruction and direction given by an authorized and identified officer of a member of the Commission, including to stop, to move to a safe location, and to facilitate safe boarding and inspection of the vessel, its licence, gear, equipment, records, facilities, fish and fish products. Such boarding and inspection shall be conducted as much as

See accompanying independent accountants' report on applying agreed-upon procedures.

possible in a manner so as not to interfere unduly with the lawful operation of the vessel. The operator and each member of the crew shall facilitate and assist in any action by an authorized officer and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an authorized officer in the performance of his or her duties.

3. The vessel shall be marked and identified in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels or such alternative standard as may be adopted by the Commission. At all times when the vessel is in the Convention Area, all parts of such markings shall be clear, distinct and uncovered.

4. The operator shall ensure the continuous monitoring of the international distress and calling frequency 2182 khz (HF) or the international safety and calling frequency 156.8 Mhz (channel 16, VHF-FM) to facilitate communication with the fisheries management, surveillance and enforcement authorities of the members of the Commission.

5. The operator shall ensure that a recent and up to date copy of the International Code of Signals (INTERCO) is on board and accessible at all times.

6. At all times when the vessel is navigating through an area under the national jurisdiction of a member of the Commission in which it does not have a licence to fish, and at all times when the vessel is navigating on the high seas in the Convention Area and has not been authorized by its flag State to fish on the high seas, all fishing equipment on board the vessel shall be stowed or secured in such a manner that it is not readily available to be used for fishing.

ANNEX IV. INFORMATION REQUIREMENTS

The following information shall be provided to the Commission in respect of each fishing vessel entered in the record required to be maintained under article 24, paragraph 4, of this Convention:

1. Name of fishing vessel, registration number, previous names (if known), and port of registry;
2. Name and address of owner or owners;
3. Name and nationality of master;
4. Previous flag (if any);
5. International Radio Call Sign;
6. Vessel communication types and numbers (INMARSAT A, B and C numbers and satellite telephone number);
7. Colour photograph of vessel;
8. Where and when built;
9. Type of vessel;
10. Normal crew complement;
11. Type of fishing method or methods;
12. Length;
13. Moulded depth;
14. Beam;
15. Gross register tonnage;
16. Power of main engine or engines;
17. The nature of the authorization to fish granted by the flag State;
18. Carrying capacity, including freezer type, capacity and number and fish hold capacity.

— — —

See accompanying independent accountants' report on applying agreed-upon procedures.