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# AGREEMENT FOR THE ESTABLISHMENT OF THE ASIA-PACIFIC FISHERY COMMISSION

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*As last amended at the Twenty-Fifth Session of the Commission, October 1996 and approved by the FAO Council at its Hundred and Twelfth Session, Rome, June 1997*

## PREAMBLE

The contracting Governments having a mutual interest in the development and proper utilization of the living aquatic resources of the Asia-Pacific area and desiring to further the attainment of these ends through international cooperation by the establishment of an Asia-Pacific Fishery Commission, agree as follows:

### Article I

#### The Commission

1. The contracting Governments agree to establish within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization") a Commission to be known as the Asia-Pacific Fishery Commission, for the purpose of carrying out the functions and duties hereinafter set forth in Article IV.
2. The Members of the Commission shall be such Member Nations and Associate Members of the Organization and such non-member States of the Organization as are Members of the United Nations, or any of its Specialized Agencies or the International Atomic Energy Agency that accept this agreement in accordance with the provisions of Article X thereof. As regards Associate Members, this agreement shall, in accordance with the provisions of Article XIV-5 of the Constitution and Rule XXI-3 of the General Rules of the Organization be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.

### Article II

#### Organization

1. Each Member shall be represented at sessions of the Commission by a single delegate, who may be accompanied by an alternate and by experts and advisers. Participation in sessions of the Commission by alternates, experts and advisers shall not entail the right to vote, except in the place of a delegate during his absence.
2. Each Member shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except when a greater majority is required by this agreement or by the Rules governing the procedure of the Commission. A majority of the total membership of the Commission shall constitute a quorum.
3. The Commission shall at each regular session elect a Chairman and a Vice-Chairman who shall serve until the end of the next regular session.
4. The Chairman of the Commission in consultation with the Director-General of the Organization shall convene a regular session of the Commission at least once in every two years unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in

consultation with the Director-General of the Organization.

5. The seat of the Commission shall be at the seat of the Regional Office of the Organization most conveniently situated within the area defined in Article VI.

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

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

## **Article III**

### **Committees and working parties**

1. There shall be an Executive Committee consisting of the Chairman, the Vice-Chairman, the immediately retired Chairman and two members elected by the Commission. In the unavoidable absence of one or two members of the Executive Committee from a Committee session, the Chairman shall have the power to co-opt the chairman of one or two of the committees which may from time to time be established in accordance with the Rules governing the procedure of the Commission, at his discretion, to substitute the absent Committee member or members for that Committee session only, provided that two permanent members of the Executive Committee shall always be present and that the number of voting members attending the Committee session shall in no case exceed five.

2. The Commission may in addition establish temporary, special or standing committees to study and report on matters pertaining to the purpose of the Commission.

3. The Commission may establish working parties to study and recommend on specific technical problems. These working parties shall be convened by the Director-General of the Organization at such times and places as are in accordance with the objectives for which they were established.

4. The establishment of committees and working parties referred to in paragraphs 2 and 3 above shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization; the determination of such availability shall be made by the Director-General. Before taking any decision involving expenditures in connexion with the establishment of committees and working parties, the Commission shall have before it a report from the Director-General on the administrative and financial implications thereof.

## **Article IV**

### **Functions**

The purpose of the Commission shall be to promote the full and proper utilization of living aquatic resources by the development and management of fishing and culture operations and by the development of related processing and marketing activities in conformity with the objectives of its Members, and to these ends it shall have the following functions and responsibilities:

- (a) to keep under review the state of these resources and of the industries based on them;
- (b) to formulate and recommend measures and to initiate and carry out programmes or projects to,
  - (i) increase the efficiency and sustainable productivity of fisheries and aquaculture;
  - (ii) conserve and manage resources;

(iii) protect resources from pollution;

(c) to keep under review the economic and social aspects of fishing and aquaculture industries and recommend measures aimed at improving the living and working conditions of fishermen and other workers in these industries and otherwise at improving the contribution of each fishery to social and economic goals;

(d) to promote programmes for mariculture and coastal fisheries enhancement;

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

(f) to encourage, recommend, coordinate and undertake, as appropriate, research and development activities in all respects of fisheries;

(g) to assemble, publish or otherwise disseminate information regarding the living aquatic resources and fisheries based on these resources;

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

## **Article V**

### **Reports**

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

## **Article VI**

### **Area**

The Commission shall carry out the functions and responsibilities set forth in Article IV in the Asia-Pacific Area.

## **Article VII**

### **Cooperation with international bodies**

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

## **Article VIII**

### **Expenses**

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives on committees or working parties established in accordance with Article III of this agreement shall be determined and paid by their respective governments.

2. The expenses of the Secretariat, including publications and communications, and of the Chairman, Vice-Chairman and the immediately retired Chairman of the Commission and of the other two members of the Executive Committee when performing duties connected with the Commission's work during intervals

between its sessions, shall be determined and paid by the Organization within the limits of a biennial budget prepared and approved in accordance with the Constitution, the General Rules and Financial Regulations of the Organization.

3. The expenses of research or development projects undertaken by individual Members of the Commission, whether independently or upon the recommendation of the Commission, shall be determined and paid by their respective governments.

4. The expenses incurred in connexion with activities undertaken in accordance with the provisions of Article IV, paragraphs (e) and (f), unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Cooperative projects shall be submitted to the Council of the Organization prior to implementation. Contributions for cooperative projects shall be paid into a trust fund to be established by the Organization and shall be administered by the Organization in accordance with the Financial Regulations and Rules of the Organization.

5. The expenses of experts invited, with the concurrence of the Director-General, to attend meetings of the Commission, committees or working parties in their individual capacity shall be borne by the budget of the Organization.

## **Article IX Amendments**

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

## **Article X Acceptance**

1. This agreement shall be open to acceptance by Member Nations and Associate Members of the Organization.

2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are Members of the United Nations, of any of its Specialized Agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this agreement as in force at the time of admission. Participation by such States in the activities of the Commission shall be contingent upon the assumption of a proportionate share in the expenses of the Secretariat, as determined by the Organization.

3. Acceptance of this agreement by any Member Nation or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and

shall take effect on receipt of such instrument by the Director-General.

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

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

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

## **Article XI**

### **Entry into force**

This agreement shall enter into force upon the date of receipt of the fifth instrument of acceptance.

## **Article XII**

### **Territorial application**

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

## **Article XIII**

### **Withdrawal**

1. Any Member may withdraw from this agreement at any time after the expiration of two years from the date upon which the agreement entered into force with respect to that Member, by giving the written notice of such withdrawal to the Director-General of the Organization, who shall immediately inform of such withdrawal all the Members of the Commission and the Member Nations of the Organization as well as the Secretary-General of the United Nations. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General.

2. A Member of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Commission, it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Commission is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

3. Any Member of the Commission that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission and this withdrawal shall be deemed to apply to

all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

## **Article XIV**

### **Interpretation and settlement of disputes**

Any dispute regarding the interpretation or application of this agreement, if not settled by the Commission, shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court, unless the parties to the dispute agree to another method of settlement.

## **Article XV**

### **Termination**

This agreement shall be considered terminated if and when the number of Members of the Commission drops below five unless the remaining Members of the Commission unanimously decide otherwise.

## **Article XVI**

### **Certification and registration**

The text of this agreement was originally formulated at Baguio the 26th day of February one thousand nine hundred and forty-eight, in the English language. Two copies in the English and French languages of this agreement as amended shall be certified by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this agreement and transmit one copy to each Member Nation of the Organization and to such non-member nations of the Organization that may become parties to this agreement.