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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 October 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 470 final - ANNEX
Subject:	ANNEX to the Proposal for a Council Decision on the signing, on behalf of the European Union, and the provisional application of the Protocol to amend the International Convention for the Conservation of Atlantic Tunas

Delegations will find attached document COM(2019) 470 final - ANNEX.

Encl.: COM(2019) 470 final - ANNEX



EUROPEAN
COMMISSION

Brussels, 14.10.2019
COM(2019) 470 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

**on the signing, on behalf of the European Union, and the provisional application of the
Protocol to amend the International Convention for the Conservation of Atlantic Tunas**

ANNEX

PROTOCOL TO AMEND THE INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS

The Contracting Parties to the International Convention for the Conservation of Atlantic Tunas, done at Rio de Janeiro on 14 May 1966 (hereinafter “the Convention”),

RECALLING the *Recommendation by ICCAT to establish a Working Group to develop amendments to the ICCAT Convention* [Rec. 12-10] and the resulting draft proposals for amendment developed through this Working Group,

TAKING NOTE of the *Resolution by ICCAT regarding participation by fishing entities under the amended ICCAT Convention* [Res. 19-XX] and the *Recommendation by ICCAT on fishes considered to be tuna and tuna-like species or oceanic, pelagic, and highly migratory elasmobranchs* [Rec. 19-XX], which are integral components of the proposals for amendment and were adopted by the Commission in conjunction with the finalization of this Protocol,

CONSIDERING that the proposals for amendment to the Convention set out herein involve new obligations,

EMPHASIZING the importance of completing their respective internal acceptance procedures expeditiously in order that this Protocol may enter into force for all Contracting Parties as soon as possible,

Have agreed as follows:

Article 1

The Preamble to the Convention shall be amended to read as follows:

“The Governments whose duly authorized representatives have subscribed hereto, considering their mutual interest in the populations of tuna and tuna-like fishes and elasmobranchs that are oceanic, pelagic, and highly migratory found in the Atlantic Ocean, and desiring to co-operate in maintaining the populations of these fishes at levels that will permit their long term conservation and sustainable use for food and other purposes, resolve to conclude a Convention for the conservation of these resources, and to that end agree as follows:”

Article 2

Articles II and III of the Convention shall be amended to read as follows:

“Article II

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

Article III

1. The Contracting Parties hereby agree to establish and maintain a Commission to be known as the International Commission for the Conservation of Atlantic Tunas, hereinafter referred to as “the Commission”, which shall carry out the objectives set forth in this Convention. Each Contracting Party shall be a Member of the Commission.
2. Each of the Members of the Commission shall be represented on the Commission by not more than three Delegates. Such Delegates may be assisted by experts and advisors.
3. Decisions of the Commission shall be taken by consensus as a general rule. Except as may otherwise be provided in this Convention, if consensus cannot be achieved,

decisions shall be made by a two-thirds majority of the Members of the Commission present and casting affirmative or negative votes, each Member of the Commission having one vote. Two-thirds of all the Members of the Commission shall constitute a quorum.

4. The Commission shall hold a regular meeting once every two years. A special meeting may be called at any time at the request of a majority of all the Members of the Commission or by decision of the Council as constituted in Article VI.
5. At its first meeting, and thereafter at each regular meeting, the Commission shall elect from among the Contracting Parties a Chairman, a first Vice-Chairman and a second Vice-Chairman who shall not be re-elected for more than one term.
6. The meetings of the Commission and its subsidiary bodies shall be public unless the Commission otherwise decides.
7. The official languages of the Commission shall be English, French and Spanish.
8. The Commission shall have authority to adopt such rules of procedure and financial regulations as are necessary to carry out its functions.
9. The Commission shall submit a report to the Members of the Commission every two years on its work and findings and shall also inform any Member of the Commission, whenever requested, on any matter relating to the objectives of this Convention.”

Article 3

A new Article IV shall be added to the Convention, which shall read as follows:

“Article IV

The Commission and its Members, in conducting work under this Convention, shall act to:

- a) apply the precautionary approach and an ecosystem approach to fisheries management in accordance with relevant internationally agreed standards and, as appropriate, recommended practices and procedures;
- b) use the best scientific evidence available;
- c) protect biodiversity in the marine environment;
- d) ensure fairness and transparency in decision making processes, including with respect to the allocation of fishing possibilities, and other activities; and
- e) give full recognition to the special requirements of developing Members of the Commission, including the need for their capacity building in accordance with international law, to implement their obligations under this Convention and to develop their fisheries.”

Article 4

Articles IV, V, VI, VII, and VIII of the Convention shall be renumbered as Articles V, VI, VII, VIII, and IX, respectively, and amended to read as follows:

“Article V

1. In order to carry out the objectives of this Convention:
 - a) The Commission shall be responsible for the study of the populations of tuna and tuna-like fishes and elasmobranchs that are oceanic, pelagic, and highly

migratory, hereinafter referred to as “ICCAT species”, and such other species caught while fishing for ICCAT species in the Convention area, taking into account the work of other relevant international fishery-related organizations or arrangements. Such study shall include research on the above-mentioned species, the oceanography of their environment, and the effects of natural and human factors upon their abundance. The Commission may also study species belonging to the same ecosystem or dependent on or associated with ICCAT species.

- b) The Commission, in carrying out these responsibilities shall, insofar as feasible, utilise the technical and scientific services of, and information from, official agencies of the Members of the Commission and their political subdivisions and may, when desirable, utilise the available services and information of any public or private institution, organization or individual, and may undertake within the limits of its budget and with the cooperation of concerned Members of the Commission, independent research to supplement the research work being done by governments, national institutions or other international organizations.
 - c) The Commission shall ensure that any information received from such institution, organization, or individual is consistent with established scientific standards regarding quality and objectivity.
2. The carrying out of the provisions in paragraph 1 of this Article shall include:
- a) collecting and analysing statistical information relating to the current conditions and trends of ICCAT species in the Convention area;
 - b) studying and appraising information concerning measures and methods to ensure maintenance of the populations of ICCAT species in the Convention area at or above levels capable of producing maximum sustainable yield and which will ensure the effective exploitation of these species in a manner consistent with this yield;
 - c) recommending studies and investigations to the Members of the Commission; and
 - d) publishing and otherwise disseminating reports of its findings and statistical, biological and other scientific information relative to ICCAT species in the Convention area.

Article VI

1. There is established within the Commission a Council which shall consist of the Chairman and the Vice-Chairmen of the Commission together with the representatives of not less than four and not more than eight Contracting Parties. The Contracting Parties represented on the Council shall be elected at each regular meeting of the Commission. However, if at any time the number of the Contracting Parties exceeds forty, the Commission may elect an additional two Contracting Parties to be represented on the Council. The Contracting Parties of which the Chairman and Vice-Chairmen are nationals shall not be elected to the Council. In elections to the Council the Commission shall give due consideration to the geographic, tuna fishing and tuna processing interests of the Contracting Parties, as well as to the equal right of the Contracting Parties to be represented on the Council.

2. The Council shall perform such functions as are assigned to it by this Convention or are designated by the Commission, and shall meet at least once in the interim between regular meetings of the Commission. Between meetings of the Commission the Council shall make necessary decisions on the duties to be carried out by the staff and shall issue necessary instructions to the Executive Secretary. Decisions of the Council shall be made in accordance with rules to be established by the Commission.

Article VII

To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas. Each Panel in such case:

- a) shall be responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto;
- b) may propose to the Commission, upon the basis of scientific investigations, recommendations for joint action by the Members of the Commission; and
- c) may recommend to the Commission studies and investigations necessary for obtaining information relating to its species, group of species, or geographic area, as well as the co-ordination of programmes of investigation by the Members of the Commission.

Article VIII

The Commission shall appoint an Executive Secretary who shall serve at the pleasure of the Commission. The Executive Secretary, subject to such rules and procedures as may be determined by the Commission, shall have authority with respect to the selection and administration of the staff of the Commission. The Executive Secretary shall also perform, *inter alia*, the following functions as the Commission may prescribe:

- a) coordinating the programmes of investigation carried out pursuant to Articles V and VII of this Convention;
- b) preparing budget estimates for review by the Commission;
- c) authorising the disbursement of funds in accordance with the Commission's budget;
- d) accounting for the funds of the Commission;
- e) arranging for co-operation with the organizations referred to in Article XIII of this Convention;
- f) preparing the collection and analysis of data necessary to accomplish the purposes of this Convention, particularly those data relating to the current and maximum sustainable yield of stocks of ICCAT species; and
- g) preparing for approval by the Commission scientific, administrative and other reports of the Commission and its subsidiary bodies.

Article IX

1.
 - a) The Commission may, on the basis of scientific evidence, make recommendations designed to:
 - (i) ensure in the Convention area the long-term conservation and sustainable use of ICCAT species by maintaining or restoring the

abundance of the stocks of those species at or above levels capable of producing maximum sustainable yield;

- (ii) promote, where necessary, the conservation of other species that are dependent on or associated with ICCAT species, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened.

These recommendations shall become effective for the Members of the Commission under the conditions laid down in paragraphs 2 and 3 of this Article.

- b) The recommendations referred to above shall be made:
 - (i) at the initiative of the Commission if an appropriate Panel has not been established;
 - (ii) at the initiative of the Commission with the approval of at least two-thirds of all the Members of the Commission if an appropriate Panel has been established but a proposal has not been approved by the Panel;
 - (iii) on a proposal that has been approved by an appropriate Panel; or
 - (iv) on a proposal that has been approved by the appropriate Panels if the recommendation in question relates to more than one geographic area, species or group of species.

2. Each recommendation made under paragraph 1 of this Article shall become effective for all the Members of the Commission four months after the date of the notification from the Commission transmitting the recommendation to the Members of the Commission, unless otherwise agreed upon by the Commission at the time the recommendation is adopted and except as provided in paragraph 3 of this Article. However, under no circumstances shall a recommendation become effective in less than three months.

3.

- a) If any Member of the Commission in the case of a recommendation made under paragraph 1(b)(i) or (ii) above, or any Member of the Commission which is also a member of a Panel concerned in the case of a recommendation made under paragraph 1(b)(iii) or (iv) above, presents to the Commission an objection to such recommendation within the period established pursuant to paragraph 2 above, the recommendation shall not become effective for those Members of the Commission who raised the objection.
- b) If objections have been presented by a majority of the Members of the Commission within the period established pursuant to paragraph 2 above, the recommendation shall not become effective for any Member of the Commission.
- c) A Member of the Commission presenting an objection in accordance with subparagraph (a) above shall provide to the Commission in writing, at the time of presenting its objection, the reason for its objection, which shall be based on one or more of the following grounds:
 - (i) the recommendation is inconsistent with this Convention or other relevant rules of international law;

- (ii) the recommendation unjustifiably discriminates in form or in fact against the objecting Member of the Commission;
 - (iii) the Member of the Commission cannot practicably comply with the measure because it has adopted a different approach to conservation and sustainable management or because it does not have the technical capabilities to implement the recommendation; or
 - (iv) security constraints as a result of which the objecting Member of the Commission is not in a position to implement or comply with the measure.
- d) Each Member of the Commission that presents an objection pursuant to this Article shall also provide to the Commission, to the extent practicable, a description of any alternative conservation and management measures, which shall be at least equally effective as the measure to which it is objecting.
4. Any Member of the Commission objecting to a recommendation may at any time withdraw that objection, and the recommendation shall become effective with respect to such Member of the Commission immediately if the recommendation is already in effect, or at such time as it may become effective under the terms of this Article.
5. The Executive Secretary shall promptly circulate to all the Members of the Commission the details of any objection and explanation received in accordance with this Article and of each withdrawal of such an objection, and shall notify all the Members of the Commission of when any recommendation comes into effect.”

Article 5

A new Article X shall be added to the Convention, which shall read as follows:

“Article X

1. Every effort shall be made within the Commission in order to prevent disputes, and the parties to any dispute shall consult each other in order to settle disputes concerning this Convention by amicable means and as quickly as possible.
2. Where a dispute concerns a matter of a technical nature, the parties to the dispute may jointly refer the dispute to an *ad hoc* expert panel established in accordance with the procedures to be adopted by the Commission. The panel shall confer with the parties to the dispute and shall endeavour to expeditiously resolve the dispute without recourse to binding procedures.
3. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, best efforts shall be made to have the dispute resolved by peaceful means.
4. Any such dispute that is not resolved through means set out in the paragraphs above, may be submitted to final and binding arbitration for settlement, at the joint request of the parties to the dispute. Prior to jointly requesting arbitration, the parties to the dispute should agree on the scope of the dispute. The parties to the dispute may agree that an arbitral tribunal be constituted and conducted in accordance with Annex 1 of this Convention or in accordance with any other procedures that the parties to the dispute may decide to apply by mutual agreement. Any such arbitral tribunal shall render its decisions in accordance with this Convention, international law and relevant standards recognized by the parties to the dispute for the conservation of living marine resources.

5. The dispute settlement mechanisms set out in this Article shall only apply to disputes that relate to any act, fact, or situation that occurs after the date of the entry into force of this Article.
6. Nothing in this Article shall prejudice the ability of the parties to any dispute to pursue dispute settlement under other treaties or international agreements to which they are parties, in lieu of dispute settlement as provided for in this Article, in accordance with the requirements of that treaty or international agreement.”

Article 6

Articles IX, X, and XI of the Convention shall be renumbered as Articles XI, XII, and XIII respectively, and amended to read as follows:

“Article XI

1. The Members of the Commission agree to take all action necessary to ensure the enforcement of this Convention. Each Member of the Commission shall transmit to the Commission, biennially or at such other times as may be required by the Commission, a statement of the action taken by it for these purposes.
2. The Members of the Commission agree:
 - a) to furnish, on the request of the Commission, any available statistical, biological and other scientific information the Commission may need for the purposes of this Convention;
 - b) when their official agencies are unable to obtain and furnish the said information, to allow the Commission, through the Members of the Commission, to obtain it on a voluntary basis direct from companies and individual fishermen.
3. The Members of the Commission undertake to collaborate with each other with a view to the adoption of suitable effective measures to ensure the application of the provisions of this Convention.
4. The Contracting Parties undertake to set up a system of international enforcement to be applied to the Convention area except the territorial sea and other waters, if any, in which a State is entitled under international law to exercise jurisdiction over fisheries.

Article XII

1. The Commission shall adopt a budget for the joint expenses of the Commission for the biennium following each regular meeting.
2.
 - a) Each Member of the Commission shall contribute annually to the budget of the Commission an amount calculated in accordance with a scheme provided for in the Financial Regulations, as adopted by the Commission. The Commission, in adopting this scheme, should consider *inter alia* each Member of the Commission’s fixed basic fees for Commission and Panel membership, the total round weight of catch and net weight of canned products of Atlantic tuna and tuna-like fishes and the degree of economic development of the Members of the Commission.
 - b) The scheme of annual contributions in the Financial Regulations shall be established or modified only through the agreement of all the Members of the

Commission present and voting. The Members of the Commission shall be informed of this ninety days in advance.

3. The Council shall review the second half of the biennial budget at its regular meeting between Commission meetings and, on the basis of current and anticipated developments, may authorise reappportionment of amounts in the Commission budget for the second year within the total budget approved by the Commission.
4. The Executive Secretary of the Commission shall notify each Member of the Commission of its yearly assessment. The contributions shall be payable on January first of the year for which the assessment was levied. Contributions not received before January first of the succeeding year shall be considered as in arrears.
5. Contributions to the biennial budget shall be payable in such currencies as the Commission may decide.
6. At its first meeting the Commission shall approve a budget for the balance of the first year the Commission functions and for the following biennium. It shall immediately transmit to the Members of the Commission copies of these budgets together with notices of the respective assessments for the first annual contribution.
7. Thereafter, within a period not less than sixty days before the regular meeting of the Commission which precedes the biennium, the Executive Secretary shall submit to each Member of the Commission a draft biennial budget together with a schedule of proposed assessments.
8. The Commission may suspend the voting rights of any Member of the Commission when its arrears of contributions equal or exceed the amount due from it for the two preceding years.
9. The Commission shall establish a Working Capital fund to finance operations of the Commission prior to receiving annual contributions, and for such other purposes as the Commission may determine. The Commission shall determine the level of the Fund, assess advances necessary for its establishment, and adopt regulations governing the use of the Fund.
10. The Commission shall arrange an annual independent audit of the Commission's accounts. The reports of such audits shall be reviewed and approved by the Commission or by the Council in years when there is no regular Commission meeting.
11. The Commission may accept contributions, other than provided for in paragraph 2 of this Article, for the prosecution of its work.

Article XIII

1. The Contracting Parties agree that there should be a working relationship between the Commission and the Food and Agriculture Organization of the United Nations. To this end the Commission shall enter into negotiations with the Food and Agriculture Organization of the United Nations with a view to concluding an agreement pursuant to Article XIII of the Organization's Constitution. Such agreement should provide, *inter alia*, for the Director-General of the Food and Agriculture Organization of the United Nations to appoint a Representative who would participate in all meetings of the Commission and its subsidiary bodies, but without the right to vote.
2. The Members of the Commission agree that there should be co-operation between the Commission and other international fisheries commissions and scientific organizations

which might contribute to the work of the Commission. The Commission may enter into agreements with such commissions and organizations.

3. The Commission may invite any appropriate international organization and any Government which is a member of the United Nations or of any Specialized Agency of the United Nations and which is not a member of the Commission, to send observers to meetings of the Commission and its subsidiary bodies.”

Article 7

Article XII of the Convention shall be renumbered as Article XIV. Paragraph 2 of this Article shall be amended to read as follows:

- “2. At any time after ten years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention on December thirty-first of any year including the tenth year by written notification of withdrawal given on or before December thirty-first of the preceding year to the Director-General of the Food and Agriculture Organization of the United Nations.”

Article 8

Article XIII of the Convention shall be renumbered as Article XV. Paragraph 1 of this Article shall be amended to read as follows:

“1.

- a) At the initiative of any Contracting Party or of the Commission itself, the Commission may propose amendments to this Convention. Any such proposal shall be made by consensus.
- b) The Director-General of the Food and Agriculture Organization of the United Nations shall transmit a certified copy of the text of any proposed amendment to all the Contracting Parties.
- c) Any amendment not involving new obligations shall enter into force for all Contracting Parties on the thirtieth day after its acceptance by three-fourths of the Contracting Parties.
- d) Any amendment involving new obligations shall enter into force for each Contracting Party accepting the amendment on the ninetieth day after its acceptance by three-fourths of the Contracting Parties and thereafter for each remaining Contracting Party upon acceptance by it. Any amendment considered by one or more Contracting Parties to involve new obligations shall be deemed to involve new obligations and shall take effect accordingly.
- e) A Government which becomes a Contracting Party after an amendment to this Convention has been opened for acceptance pursuant to the provisions of this Article shall be bound by this Convention as amended when the said amendment comes into force.”

Article 9

A new Article XVI shall be added to the Convention, which shall read as follows:

“Article XVI

The Annexes form an integral part of this Convention and a reference to this Convention includes a reference to the Annexes.”

Article 10

Articles XIV, XV, and XVI of the Convention shall be renumbered as Articles XVII, XVIII, and XIX, respectively, and amended to read as follows:

“Article XVII

1. This Convention shall be open for signature by the Government of any State which is a Member of the United Nations or of any Specialized Agency of the United Nations. Any such Government which does not sign this Convention may adhere to it at any time.
2. This Convention shall be subject to ratification or approval by signatory countries in accordance with their constitutions. Instruments of ratification, approval, or adherence shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations.
3. This Convention shall enter into force upon the deposit of instruments of ratification, approval, or adherence by seven Governments and shall enter into force with respect to each Government which subsequently deposits an instrument of ratification, approval, or adherence on the date of such deposit.
4. This Convention shall be open for signature or adherence by any inter-governmental economic integration organization constituted by States that have transferred to it competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters.
5. Upon the deposit of its instrument of formal confirmation or adherence, any organization referred to in paragraph 4 shall be a Contracting Party having the same rights and obligations in respect of this Convention as the other Contracting Parties. Reference in the text of this Convention to the term “State” in Article XI, paragraph 4, and to the term “Government” in the Preamble and in Article XV, paragraph 1, shall be interpreted in this manner.
6. When an organization referred to in paragraph 4 becomes a Contracting Party to this Convention, the member states of that organization and those which adhere to it in the future shall cease to be parties to the Convention; they shall transmit a written notification to this effect to the Director-General of the Food and Agriculture Organization of the United Nations.

Article XVIII

The Director-General of the Food and Agriculture Organization of the United Nations shall inform all Governments referred to in Article XVII paragraph 1 and all the organizations referred to in paragraph 4 of the same Article of deposits of instruments of ratification, approval, formal confirmation or adherence, the entry into force of this Convention, proposals for amendment, notifications of acceptance of amendments, entry into force of amendments, and notifications of withdrawal.

Article XIX

The original of this Convention shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations who shall send certified copies of it to the Governments referred to in Article XVII paragraph 1 and to the organizations referred to in

paragraph 4 of the same Article.”

Article 11

Two Annexes shall be added to the Convention, which shall read as follows:

“ANNEX 1

PROCEDURES FOR DISPUTE RESOLUTION

1. The arbitral tribunal referred to in Article X paragraph 4 should be composed, as appropriate, of three arbitrators who may be appointed as follows:
 - a) One of the parties to the dispute should communicate the name of an arbitrator to the other party to the dispute that should, in turn, within a period of forty days following that notification, communicate the name of the second arbitrator. In disputes between more than two Members of the Commission, parties that have the same interest should jointly appoint one arbitrator. The parties to the dispute should, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who is not a national of either Member of the Commission and is not of the same nationality as either of the first two arbitrators. The third arbitrator should preside over the tribunal;
 - b) If the second arbitrator is not appointed within the prescribed period, or if the parties are not able to concur within the prescribed period on the appointment of the third arbitrator, that arbitrator may be appointed, at the request of the parties to the dispute, by the Chair of the Commission within two months from the date of receipt of the request.
2. The decision of the arbitral tribunal should be made by a majority of its members, which should not abstain from voting.
3. The decision of the arbitral tribunal is final and binding on the parties to the dispute. The parties to the dispute should comply with the decision without delay. The arbitral tribunal may interpret the decision at the request of one of the parties to the dispute.

ANNEX 2

FISHING ENTITIES

1. After the entry into force of the amendments to this Convention adopted on *<date of adoption>*, only the fishing entity that had attained by 10 July 2013 Cooperating Status in accordance with the procedures established by the Commission, as reflected in Resolution *<XX-XX>* adopted concurrent with this Annex, may, by a written instrument delivered to the Executive Secretary of the Commission, express its firm commitment to abide by the terms of this Convention and comply with recommendations adopted pursuant to it. Such commitment shall become effective thirty days from the date of receipt of the instrument. Such fishing entity may withdraw such commitment by a written notification addressed to the Executive Secretary of the Commission. The withdrawal shall become effective one year after the date of its receipt, unless the notification specifies a later date.
2. In case of any further amendment made to this Convention pursuant to Article XV, the fishing entity referred to in paragraph 1 may, by a written instrument delivered to the Executive Secretary of the Commission, express its firm commitment to abide by the terms of the amended Convention and comply with recommendations adopted pursuant to

- it. This commitment of a fishing entity shall be effective from the dates referred to in Article XV or on the date of receipt of the written communication referred to in this paragraph, whichever is later.
3. The Executive Secretary shall notify the Contracting Parties of its receipt of such commitments or notifications; make such notifications available to the Contracting Parties; provide notifications from the Contracting Parties to the fishing entity, including notifications of ratification, approval, or adherence and entry into force of this Convention and its amendments; and keep safe custody of any such documents transmitted between the fishing entity and the Executive Secretary.
 4. The fishing entity referred to in paragraph 1 which has expressed, through the submission of the written instrument referred to in paragraphs 1 and 2, its firm commitment to abide by the terms of this Convention and comply with recommendations adopted pursuant to it may participate in the relevant work, including decision making, of the Commission, and shall, *mutatis mutandis*, enjoy the same rights and obligations as Members of the Commission as set forth in Articles III, V, VII, IX, XI, XII, and XIII of this Convention.
 5. If a dispute involves the fishing entity referred to in paragraph 1 which has expressed its commitment to be bound by the terms of this Convention in accordance with this Annex and cannot be settled by amicable means, the dispute may, with the mutual agreement of the parties to the dispute, be submitted, as the case may be, to an ad hoc expert panel or, after seeking to agree on the scope of the dispute, for final and binding arbitration.
 6. The provisions of this Annex relating to the participation of the fishing entity referred to in paragraph 1 are only for the purposes of this Convention.
 7. Any Non-Contracting Party, Entity, or Fishing Entity that obtains Cooperating Status after 10 July 2013 shall not be considered a Fishing Entity for the purposes of this Annex and, thus, shall not enjoy the same rights and obligations as Members of the Commission as set forth in Articles III, V, VII, IX, XI, XII, and XIII of this Convention.”

Article 12

The original of this Protocol, the English, French and Spanish texts of which are equally authentic, shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations. It shall be open for signature in *<Palma de Mallorca, Spain>* on November *<XX>*, 2019 and thereafter in Rome until November *<XX>*, 2020. The Contracting Parties to the Convention that have not signed this Protocol may nevertheless deposit their instruments of approval, ratification, or acceptance at any time. The Director-General of the Food and Agriculture Organization of the United Nations shall send a certified copy of this Protocol to each of the Contracting Parties to the Convention.

Article 13

This Protocol shall enter into force for each Contracting Party to the Convention accepting it on the ninetieth day after the deposit with the Director-General of the Food and Agriculture Organization of the United Nations of an instrument of approval, ratification, or acceptance by three-fourths of the Contracting Parties to the Convention, and thereafter for each remaining Contracting Party to the Convention upon approval, ratification, or acceptance by it. A government which becomes a Contracting Party to the Convention after this Protocol has been opened for signature pursuant to Article 12 above shall be considered as having accepted this Protocol.

Article 14

Following the entry into force of this Protocol for those three-fourths of the Contracting Parties to the Convention that have deposited of an instrument of approval, ratification, or acceptance with the Director-General of the Food and Agriculture Organization of the United Nations, the Contracting Parties to the Convention that have not deposited their instruments of approval, ratification, or acceptance shall be deemed to remain Members of the Commission. The Commission shall adopt measures to ensure its orderly functioning until this Protocol enters into force for all Contracting Parties to the Convention. A Contracting Party to the Convention for which this Protocol has not yet entered into force may nonetheless choose to implement these amendments provisionally, and may notify the Director General of the Food and Agriculture Organization to this effect.

Done at < *Palma de Mallorca, Spain* > <XX> November, 2019