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Northwest Atlantic Fisheries Organization



Report of the Technical Editing Working Group (*Revised 20 June*)

22-23 May 2007
Brussels, Belgium

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2007

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**REPORT OF
THE TECHNICAL EDITING WORKING GROUP (*Revised 20 June*)**

22-23 May 2007, Brussels, Belgium

1. The Chair, Mr. Terje Lobach (Norway), opened the meeting at 9:00 am. Canada, France (in respect to St. Pierre et Miquelon), EU, Iceland, Norway, Russia, Ukraine, and USA were represented at the meeting (Annex 1).
2. The Executive Secretary was appointed as rapporteur.
3. The terms of reference for the meeting were considered (Annex 2).
4. The meeting decided to use as a basis for its discussions the revision of the Convention approved by the General Council during its intersessional meeting 19-20 April 2007 in Montreal, Quebec, Canada (GC Working Paper 07/12). Participants also agreed to defer discussions on bracketed text to the General Council. The proposal by Canada circulated on the 17 May (GFS/07-194) as well as suggestions circulated by U.S.A. before the meeting were used as a starting point for discussions on the technical editing. It was agreed that amendments to the “Montreal” text would only be made by consensus.
5. The meeting accepted to replace the term “proposal” by the term “measure” consistently throughout the text.
6. With regard to description of measures adopted by the Commission, the meeting decided to refer to “conservation and management measures”.
7. Participants agreed to consistently change the term “living marine resources” to “living resources”.
8. The meeting decided to differentiate between “measures” and “actions”, referring to “measures” as those adopted by the Commission and to “actions” as those implemented by individual Contracting Parties.
9. The Ukraine proposed to insert relevant text from referenced articles of other international instruments into the NAFO Convention to allow it to be a stand-alone document. As this was deemed to be a substantive matter, the meeting could not consider it. Ukraine considers to submit its proposal to the next Annual Meeting in September 2007.
10. The reference to the FAO Compliance Agreement in the preamble (paragraph 2) was questioned as inappropriate because not all NAFO Contracting Parties are signatories to this Agreement. However, many felt that this was a substantive matter and the reference was thus maintained.
11. Regarding the definition of “fishery resources” (Article I.f), Russia pointed out that by restricting exploitable resources to “fish, molluscs and crustaceans” only, other resources that are currently insignificant but that could be targeted in the future, such as jellyfish and sea cucumbers, are not included in the mandate of NAFO. This would unnecessarily limit the Organization with regard to future opportunities for utilization. Because this is a substantive matter, Russia indicated that it will prepare a proposal to amend the definition for the next Annual Meeting.
12. Regarding “fishing vessel” (Article I.h), it was suggested to replace the term “vessel” in the definition by the term “platform” to ensure that other vehicles (e.g. helicopters) are included. This did not find the approval of all and was therefore dropped at this meeting but could be raised at the Annual Meeting.

13. Participants agreed to some changes in Articles II and III.
14. With regard to Article IV, the meeting approved to delete the last sentence in paragraph 2 and instead insert a new Article XVIII bis that provides for all Annexes becoming an integral part of the Convention. Furthermore, France (with respect to St. Pierre et Miquelon) announced that it will agree to a deletion of paragraph 3 and that this item thus no longer needs to remain bracketed.
15. The meeting consented to minor changes in Article V.
16. Regarding Article VI, participants largely followed the proposal by Canada to re-organize the sequence of paragraphs including extensive re-wording suggestions. However, because it was regarded as a substantive issue, the meeting could not concur with the Canadian proposal of introducing a paragraph 7bis, which would ensure that regulations by the Commission with regard to participation in fishing, the conduct of fishing for scientific purposes, and the collection, submission, verification, access to and use of data can only apply to the Regulatory Area. Taking note of reservations expressed by Canada, France (in respect of St. Pierre et Miquelon) and U.S.A., the meeting decided that until further discussion by General Council, these areas of application should remain under the previous paragraph that states that Commission regulations apply “in relation to the Regulatory Area, or, where agreed by consensus, in relation to the Convention Area”.
17. Article VII was re-organized and made consistent with the re-drafting of previous text.
18. The meeting agreed to minor changes in Articles VIII through XI.
19. Many participants felt that the Article XII on Port State Measures lacked substance but that it was beyond the mandate of this group to suggest any changes. Therefore, even though it was viewed as being redundant from a technical standpoint, the paragraph 2 in this Article was maintained.
20. Articles XIV and XV both contain references to Article VI, paragraph 7. Where such references occur, Canada has voiced its reservation.
21. Participants also discussed the necessity of referencing “tribunals” in addition to “courts” in the description of dispute settlement procedures in Article XV.
22. The meeting lacked the time to review the annexes to the Convention. It was agreed to circulate the Annexes to participants for their comments including the editorial proposal by Canada on Annex 2 (Rules of Procedure for *ad hoc* Panel Proceedings).
23. The meeting concurred that the report together with the edited version of GC Working Paper 07/12 (Annex 3) should be circulated as soon as possible to participants and to have at least two short periods of comments with the option to allow for an additional meeting of the TEWG if deemed necessary before adoption of the edited Working Paper. This process has to be finalized before the 25 June 2007, i.e. the deadline for submission of a formal proposal to amend the NAFO Convention.
24. The EU proposed a format for the preparation of a formal proposal to amend the NAFO Convention and provided a template. As time did not allow the meeting to discuss the paper, this template was finalized after the meeting based on written comments by participants (Annex 4).
25. The meeting was adjourned at 6:00 pm on 23 May 2007.
26. During the round of comments after the meeting a number of editorial drafting suggestions were made that could not be incorporated into the edited version of GC WP07/12 (*June 20*). Also, it was not possible to discuss an editorial revision of Annex 2 of the amended Convention. The most prominent suggestions were:

1. Proposal by Canada (*affects a number of Article throughout the text*):

- *A measure adopted by the Commission but not yet in force “measure adopted by the Commission”*
- *A measure in force (except for an objecting CP) “measure of the Commission”*

2. Proposal by Canada to revise text of Annex 2.

Iceland endorsed Canadian drafting suggestions whereas other participants preferred to postpone the discussions or rejected the suggestions *in toto*. Canada proposes that TEWG participants discuss editorial changes to Annex 2 by over the next weeks via email and perhaps during a phone conference.

Some participants expressed their interest in continuing discussions on editorial changes to the current text for an amended Convention. To facilitate such discussions, the Secretariat prepared a TEWG Discussion Paper that incorporates editorial suggestions from participants that were not included in Revision 4 as well as the Canadian proposal for a wording of Annex 2.

Annex 1. List of Participants

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Annex 2. Terms of Reference for the Technical Editing Working Group
(GC WP 07/11, Revised)

1. Review the existing text by addressing the following:
 - a. Consistency check of use of terminology within the Convention text
 - b. Issues related to format (e.g. punctuation, spelling, format for numbering, cross references, etc.)
 - c. Correct use of language
2. Transform the negotiated text into a proposal to amend the NAFO Convention.

The mandate of the Technical Editing Working Group does not include making any changes to the negotiated text unless absolutely necessary from a legal drafting point of view.

The TEWG is scheduled to meeting on 22-23 May 2007, hosted by the EU in Brussels. Participants per Contracting Party are set at a maximum of two.

Annex 3. Edited version of GC WP 07/12 (Convention Text)
(Revised 20 June 2007)

Convention on Cooperation in the Northwest Atlantic Fisheries

(items with square-bracketed text indicated by arrow in left margin)

The CONTRACTING PARTIES,

NOTING that the coastal States of the Northwest Atlantic have established exclusive economic zones consistent with the United Nations Convention on the Law of the Sea of 10 December 1982 and customary international law, within which they exercise sovereign rights for the purpose of exploring and exploiting, conserving and managing living resources;

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, 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 of 4 August 1995, and the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993;

TAKING INTO ACCOUNT the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995 and related instruments adopted by the Food and Agriculture Organization of the United Nations;

RECOGNIZING the economic and social benefits deriving from the sustainable use of fishery resources;

DESIRING to promote the long term conservation and sustainable use of the fishery resources of the Northwest Atlantic;

CONSCIOUS of the need for international cooperation and consultation with respect to those fishery resources;

MINDFUL that effective conservation and management of these fishery resources should be based on the best available scientific advice and the precautionary approach;

COMMITTED to apply an ecosystem approach to fisheries management in the Northwest Atlantic that includes safeguarding the marine environment, conserving its marine biodiversity, minimizing the risk of long term or irreversible adverse effects of fishing activities, and taking account of the relationship between all components of the ecosystem;

FURTHER COMMITTED to conduct responsible fishing activities and to prevent, deter and eliminate IUU fishing;

HAVE AGREED as follows:

Article I – Use of Terms

For the purpose of this Convention:

- (a) “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) “1995 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 of 4 August 1995;
- (c) “coastal State” means a Contracting Party having an exclusive economic zone within the Convention Area;
- (d) “Contracting Party” means:
 - (i) any State or regional economic integration organization which has consented to be bound by this Convention, and for which the Convention is in force; and

- [(ii) This Convention applies *mutatis mutandis* to any entity referred to in the Article 305, paragraph 1 c), d) and e) of the 1982 Convention, which becomes a Party to this Convention, and to that extent “Contracting Party” refers to such entities.]
- (e) “Convention Area”, means the area to which this Convention applies, as described in Article IV paragraph 1;
- (f) “fishery resources” means all fish, molluscs and crustaceans within the Convention Area excluding:
- (i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the 1982 Convention; and
 - (ii) in so far as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the 1982 Convention;
- (g) “fishing activities” means harvesting or processing fishery resources, or transshipping of fishery resources or products derived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fishery resources, including:
- (i) the actual or attempted searching for, catching or taking of fishery resources;
 - (ii) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and
 - (iii) any operation at sea in support of, or in preparation for, any activity described in this definition; but does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel;
- (h) “fishing vessel” means any vessel that is or has been engaged in fishing activities, and includes fish processing vessels and vessels engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities;
- (i) “flag State” means:
- (i) a State whose vessels are entitled to fly its flag; or
 - (ii) a regional economic integration organization in which vessels are entitled to fly the flag of a member State of that regional economic integration organization [; or]
- [(iii) an entity referred to in Article 305 paragraph 1c), d) or e) of the 1982 Convention whose vessels are entitled to fly its flag;]
- (j) “IUU fishing” refers to the activities described in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing adopted by the Food and Agriculture Organization of the United Nations on 2 March 2001;
- (k) “living resources” means all living components of marine ecosystems;
- (l) “marine biological diversity” means the variability among living marine organisms and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
- (m) “nationals” includes both natural and legal persons;
- (n) “port State” means any State receiving fishing vessels in its ports, offshore terminals or other installations for, *inter alia*, landing, transshipping, refuelling or re-supplying;
- (o) “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; and
- (p) “Regulatory Area” means that part of the Convention Area beyond areas under national jurisdiction.

Article II – Objective

The objective of this Convention is to ensure the long term conservation and sustainable use of the fishery resources in the Convention Area and, in so doing, to safeguard the marine ecosystems in which these resources are found.

Article III – General Principles

In giving effect to the objective of this Convention, Contracting Parties individually or collectively, as appropriate, shall:

- (a) promote the optimum utilization and long-term sustainability of fishery resources;
- (b) adopt measures based on the best scientific advice available to ensure that fishery resources are maintained at or restored to levels capable of producing maximum sustainable yield;
- (c) apply the precautionary approach in accordance with Article 6 of the 1995 Agreement;
- (d) take due account of the impact of fishing activities on other species and marine ecosystems and in doing so, adopt measures to minimize harmful impact on living resources and marine ecosystems;
- (e) take due account of the need to preserve marine biological diversity;
- (f) prevent or eliminate overfishing and excess fishing capacity, and ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of the fishery resources;
- (g) ensure that complete and accurate data concerning fishing activities within the Convention Area are collected and shared among them in a timely manner;
- (h) ensure effective compliance with management measures and that sanctions for any infringements are adequate in severity; and
- (i) take due account of the need to minimize pollution and waste originating from fishing vessels as well as minimize discards, catch by lost or abandoned gear, catch of species not subject to a directed fishery and impacts on associated or dependent species, in particular endangered species.

Article IV – Area of Application

1. This Convention applies to the waters of the Northwest Atlantic Ocean north of 35°00' N and west of a line extending due north from 35°00' N and 42°00' W to 59°00' N, thence due west to 44°00' W, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' N.
2. The Convention Area shall be divided into scientific and statistical subareas, divisions and subdivisions, the boundaries of which shall be as defined in Annex I to this Convention.

Article V – The Organization

1. Contracting Parties hereby agree to establish, maintain and strengthen the Northwest Atlantic Fisheries Organization, hereinafter “the Organization” that shall carry out the functions set out in this Convention in order to achieve the objective of this Convention.
2. The Organization shall consist of:
 - (a) a Commission;
 - (b) a Scientific Council; and
 - (c) a Secretariat.
3. The Organization shall have legal personality and shall enjoy in its relations with other international organizations and in the territories of the Contracting Parties such legal capacity as may be necessary to perform its functions and achieve its objective. The privileges and immunities which the Organization and its officers shall enjoy in the territory of a Contracting Party shall be subject to agreement between the Organization and the Contracting Party including, in particular, a headquarters agreement between the Organization and the host Contracting Party.

4. The Chairperson of the Commission shall serve as the President and principal representative of the Organization.
5. The President shall convene the annual meeting of the Organization at such time and place as the Commission may determine.
6. The headquarters of the Organization shall be in the Halifax Regional Municipality, Nova Scotia, Canada, or at such other place as may be decided by the Commission.

Article VI – The Commission

1. Each Contracting Party shall be a member of the Commission and shall appoint one representative to the Commission who may be accompanied by alternative representatives, experts and advisers.
2. The Commission shall elect a Chairperson and a Vice-Chairperson for a term of two years. Each shall be eligible for re-election but shall not serve for more than four years in succession in the same capacity. The Chairperson and Vice-Chairperson shall not be representatives of the same Contracting Party.
3. Any Contracting Party may request a special meeting of the Commission. The Chairperson of the Commission shall thereupon convene such meeting at such time and place as the Chairperson may determine.
4. The Commission shall:
 - (a) adopt and may amend the rules for the conduct of its meetings and for the exercise of its functions, including rules of procedure, financial regulations and other regulations;
 - (b) establish such subsidiary bodies as it considers desirable for the exercise of its functions and direct their activities;
 - (c) supervise the organizational, administrative, financial and other internal affairs of the Organization, including relations among its constituent bodies;
 - (d) appoint an Executive Secretary on such terms and conditions as it may determine;
 - (e) direct the external relations of the Organization;
 - (f) approve the budget of the Organization;
 - (g) adopt rules to provide for the participation of representatives of inter-governmental organizations, non-Contracting Parties and non-governmental organizations as observers at its meetings, as appropriate. Such rules shall not be unduly restrictive and shall provide for timely access to reports and records of the Commission;
 - (h) exercise such other functions and carry out such other activities consistent with this Convention as it may decide;
 - (i) guide the Scientific Council in identifying tasks and priorities for its work; and
 - (j) develop appropriate procedures in accordance with international law to assess the performance by Contracting Parties of their obligations pursuant to Articles X and XI.
5. The Commission shall, in collaboration with the Scientific Council:
 - (a) regularly review the status of fish stocks and identify actions required for their conservation and management;
 - (b) collect, analyze and disseminate relevant information;
 - (c) assess the impact of fishing activities and other human activities on living resources and their ecosystems;
 - (d) develop guidelines for the conduct of fishing activities for scientific purposes; and

- (e) develop guidelines for the collection, submission, verification, access to and use of data.
6. The Commission may refer to the Scientific Council any question pertaining to the scientific basis for the decisions it may need to take concerning fishery resources, the impact of fishing activities on living resources, and the safeguarding of the ecosystem in which these resources are found.
 7. In applying the principles set out in Article III, the Commission shall, in relation to the Regulatory Area or, where agreed by consensus, in relation to the Convention Area, adopt:
 - (a) conservation and management measures to achieve the objective of this Convention;
 - (b) conservation and management measures to minimize the impact of fishing activities on living resources and their ecosystems;
 - (c) total allowable catches and/or levels of fishing effort and determine the nature and extent of participation in fishing;
 - (d) measures for the conduct of fishing for scientific purposes as referred to in subparagraph 5(d);
 - (e) measures for the collection, submission, verification, access to and use of data as referred to in subparagraph 5(e), and
 - (f) measures to ensure adequate flag State performance.
 8. The Commission shall adopt measures for appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement of the conservation and management measures adopted by the Commission including:
 - (a) reciprocal rights of boarding and inspection by Contracting Parties within the Regulatory Area and flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections;
 - (b) inspection of fishing vessels by Contracting Parties in ports where fishery resources or products derived from fishery resources originating in the Regulatory Area, or, where agreed by consensus, in the Convention Area are landed;
 - (c) follow-up actions as provided for in Articles X, XI or XII on the basis of evidence resulting from such inspections; and
 - (d) preventing, deterring and eliminating IUU fishing.
 9.
 - (a) In exercising its functions pursuant to paragraph 7, the Commission shall seek to ensure consistency between:
 - (i) any measure that applies to a stock or group of stocks found both within the Regulatory Area and within an area under national jurisdiction of a coastal State, or any measure that would have an effect through species interrelationships on a stock or group of stocks found in whole or in part within an area under national jurisdiction of a coastal State; and
 - (ii) any actions taken by a coastal State for the management and conservation of that stock or group of stocks with respect to fishing activities conducted within the area under its national jurisdiction.
 - (b) The Commission and the appropriate coastal State shall accordingly promote the coordination of their respective measures and actions. Each coastal State shall keep the Commission informed of its actions for the purpose of this Article.
 10. Measures adopted by the Commission for the allocation of fishing opportunities in the Regulatory Area shall take into account the interests of Contracting Parties whose vessels have traditionally fished within that area and the interests of the relevant coastal States. In the allocation of fishing opportunities from the Grand Bank and Flemish Cap, the Commission shall give special consideration to the Contracting Party whose coastal communities are primarily dependent on fishing activities for stocks related to these fishing banks and which has undertaken extensive efforts to ensure the conservation of such stocks through international action, in particular, by providing surveillance and inspection of international fishing activities on these banks under an international scheme of joint enforcement.

11. The Commission, may develop procedures that allow for actions, including non-discriminatory trade-related measures, to be taken by Contracting Parties against any flag State or fishing entity whose fishing vessels engage in fishing activities that undermine the effectiveness of the conservation and management measures adopted by the Commission. Implementation by a Contracting Party of trade-related measures shall be consistent with its international obligations.

Article VII –The Scientific Council

1. Each Contracting Party shall be a member of the Scientific Council and may appoint representatives who may be accompanied at any of its meetings by alternates, experts and advisers.
2. The Scientific Council shall elect a Chairperson and a Vice-Chairperson for a term of two years. Each shall be eligible for re-election but shall not serve for more than four years in succession in the same capacity.
3. Any special meeting of the Scientific Council may be called by the Chairperson at his or her own initiative, upon the request of a coastal State, or upon the request of a Contracting Party with the concurrence of another Contracting Party at such time and place as the Chairperson may determine.
4. The Scientific Council shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions, including rules of procedure.
5. The Scientific Council may establish such subsidiary bodies as it may consider necessary for the exercise of its functions.
6. Election of officers, adoption or amendment of rules or other matters pertaining to the organization of work shall be by a majority of the votes of all Contracting Parties present and casting affirmative or negative votes. Each Contracting Party shall have one vote. No vote shall be taken in the absence of a quorum of at least two-thirds of the Contracting Parties.
7. The Scientific Council shall adopt rules to provide for the participation of representatives of inter-governmental organizations, non Contracting Parties and non-governmental organizations as observers to its meetings, as appropriate. Such rules shall not be unduly restrictive and shall provide for timely access to reports and records of the Scientific Council.
8. The Scientific Council shall consistent with the objective and principles of the Convention:
 - (a) provide a forum for consultation and cooperation among the Contracting Parties to study and exchange scientific information and views on fishing activities and the ecosystems in which they occur, and to study and appraise the current and future status of fishery resources including environmental and ecological factors affecting them;
 - (b) promote cooperation in scientific research among Contracting Parties to fill gaps in scientific knowledge;
 - (c) compile and maintain statistics and records;
 - (d) publish or disseminate reports, information and materials pertaining to the fishing activities in the Convention Area and their ecosystems; and
 - (e) provide scientific advice to the Commission as required by the Commission.
9. The Scientific Council may:
 - (a) on its own initiative provide such advice as may assist the Commission in the exercise of its functions;
 - (b) cooperate with any public or private organization sharing similar objectives; and
 - (c) request Contracting Parties to provide such statistical or scientific information as it may require for the exercise of its functions.
10. The Scientific Council shall provide scientific advice in response to any question referred to it by:
 - (a) the Commission pertaining to the scientific basis for the conservation and management of fishery resources and their ecosystems within the Regulatory Area, taking into account the terms of reference specified by the Commission in respect of that question; or

- (b) a coastal State pertaining to the scientific basis for the conservation and management of fishery resources and their ecosystems within areas under the jurisdiction of that coastal State in the Convention Area.
11. The coastal State shall, in consultation with the Scientific Council, specify terms of reference for the consideration of any question it may refer to the Scientific Council. Such terms of reference shall include, *inter alia*:
 - (a) description of the fishing activities and area to be considered;
 - (b) where scientific estimates or predictions are sought, description of any relevant factors or assumptions to be taken into account; and
 - (c) where applicable, description of any objectives the coastal State is seeking to attain and an indication of whether specific advice or a range of options should be provided.
 12. As a general rule, the Scientific Council shall provide its advice by consensus. Where consensus cannot be achieved, the Scientific Council shall set out in its report all views of its members.
 13. All reports provided by the Scientific Council shall be published by the Secretariat.

Article VIII – The Secretariat

1. The Secretariat shall provide services to the Commission, the Scientific Council and their subsidiary bodies to facilitate the exercise of their functions.
2. The chief administrative officer of the Secretariat shall be the Executive Secretary.
3. The employees of the Secretariat shall be appointed by the Executive Secretary in accordance with such rules and procedures as the Commission may adopt in consultation with the Scientific Council, as appropriate.
4. Subject to the general supervision of the Commission, the Executive Secretary shall have full authority over managing employees and employee-related issues of the Secretariat and shall perform such other duties and functions as the Commission may prescribe.

Article IX – Budget

1. Each Contracting Party shall pay the expenses of its own delegation to any meetings held pursuant to this Convention.
- ➔ 2. [The Commission shall establish the amount of the annual contributions due from each Contracting Party pursuant to the annual budget on the following basis:
 - (a) 10% of the budget shall be divided among the coastal States in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year;
 - (b) 30% of the budget shall be divided equally among all the Contracting Parties;
 - (c) 60% of the budget shall be divided among all Contracting Parties in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year; and
 - (d) the annual contribution of any Contracting Party which has a population of less than 300,000 inhabitants shall be limited to a maximum of 15% of the total budget. When this contribution is so limited, the remaining part of the budget shall be divided among the other Contracting Parties in accordance with sub-paragraphs (a), (b) and (c).

The nominal catches referred to above shall be the reported catches of the fishery resources specified in the financial regulations adopted by the Commission pursuant to paragraph 10 of Article VI.]

3. The Executive Secretary shall notify each Contracting Party of the amount of its contribution due as calculated pursuant to paragraph 2, and as soon as possible thereafter, each Contracting Party shall pay its contribution to the Organization.

4. Contributions shall be payable in the currency of the country in which the headquarters of the Organization is located.
5. No later than sixty days before the annual meeting, the Executive Secretary shall submit the draft annual budget to each Contracting Party together with the schedule of contributions.
6. A Contracting Party acceding to this Convention shall contribute in respect of the year it accedes an amount proportional to the number of complete months remaining in the year calculated from the day of its accession.
7. Unless the Commission decides otherwise, a Contracting Party that has not fully paid its contributions for two consecutive years shall have its right of casting votes and presenting objections suspended until such time as it has discharged its financial obligations to the Organization.
8. The financial affairs of the Organization shall be audited annually by external auditors to be selected by the Commission.

Article X – Contracting Party Duties

1. Each Contracting Party shall:
 - (a) implement this Convention and any conservation and management measures or other obligations binding on it and regularly submit to the Commission a description of the steps it has taken to implement and comply with such measures or obligations including outcomes of proceedings referred to in Article XI, subparagraph 2 (e);
 - (b) co-operate in furthering the objective of this Convention;
 - (c) take all necessary actions to ensure the effectiveness of and to enforce the conservation and management measures adopted by the Commission;
 - (d) collect and exchange scientific, technical, and statistical data and knowledge pertaining to living resources and their ecosystems in the Convention Area including complete and detailed information on commercial catches and fishing effort and take appropriate actions to verify the accuracy of such data;
 - (e) perform biological sampling on commercial catches;
 - (f) make such information as may be required by the Commission or Scientific Council available in a timely manner;
 - (g) without prejudice to the jurisdiction of the flag State, to the greatest extent possible, take actions or cooperate with other Contracting Parties, to ensure that its nationals and fishing vessels owned or operated by its nationals conducting fishing activities comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission; and
 - (h) without prejudice to the jurisdiction of the flag State, to the greatest extent possible, when provided with the relevant information, investigate immediately and fully and report promptly on actions it has taken in response to any alleged serious infringement by its nationals, or foreign flagged fishing vessels owned or operated by its nationals, of this Convention or any conservation and management measure adopted by the Commission.
2. Each coastal State Contracting Party shall regularly submit to the Commission a description of the actions, including enforcement actions, it has taken for the conservation and management of straddling stocks found in waters under its jurisdiction within the Convention Area.

Article XI – Flag State Duties

1. Each Contracting Party shall ensure that fishing vessels entitled to fly its flag:
 - (a) comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission and that such vessels do not engage in any activity that undermines the effectiveness of such measures;

- (b) do not conduct unauthorized fishing activities within areas under national jurisdiction in the Convention Area; and
 - (c) do not engage in fishing activities in the Regulatory Area unless they have been authorized to do so by that Contracting Party.
2. Each Contracting Party shall:
- (a) refrain from authorizing fishing vessels entitled to fly its flag to engage in fishing activities in the Regulatory Area unless it is able to exercise effectively its responsibilities in respect of such vessels pursuant to this Convention and consistent with international law;
 - (b) maintain a record of fishing vessels entitled to fly its flag it has authorized to fish for fishery resources in the Regulatory Area and ensure that such information as may be specified by the Commission is recorded therein;
 - (c) exchange the information contained in the record referred to in subparagraph (b) in accordance with such procedures as may be specified by the Commission;
 - (d) in accordance with procedures adopted by the Commission, investigate immediately and fully and report promptly on actions it has taken in response to an alleged infringement by a vessel entitled to fly its flag of measures adopted by the Commission; and
 - (e) in respect of an alleged infringement referred to in subparagraph (d) ensure that appropriate enforcement actions are taken without delay and that administrative or judicial proceedings are initiated in accordance with its laws.
3. Enforcement actions taken or sanctions applied pursuant to subparagraph 2 (e) shall be adequate in severity to be effective in securing compliance, discouraging further infringements and depriving offenders of the benefits accruing from their illegal activities.

Article XII – Port State Duties

- 1. Actions taken by a port State Contracting Party pursuant to this Convention shall take full account of its rights and duties under international law to promote the effectiveness of conservation and management measures adopted by the Commission.
- 2. Each port State Contracting Party shall implement the measures concerning inspections in port adopted by the Commission.
- 3. Nothing in this Article shall affect the sovereignty of a Contracting Party over ports in its territory.

Article XIII – Decision making of the Commission

- 1. As a general rule, decision-making within 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. If the Chairperson considers that all efforts to reach consensus have been exhausted, decisions of the Commission shall, except where otherwise provided, be taken by two-thirds majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties. Each Contracting Party shall have one vote.

Article XIV – Implementation of Commission Decisions

- 1. Each measure adopted by the Commission pursuant to [Article VI, paragraphs 7 and 8] shall become binding on each Contracting Party in the following manner:
 - (a) the Executive Secretary shall within five working days of adoption transmit the measure to each Contracting Party specifying the date of transmittal for the purposes of paragraph 2; and
 - (b) subject to paragraph 2, unless otherwise specified in the measure, it shall become binding on each Contracting Party sixty days following the date of transmittal.

2. Where any Contracting Party presents an objection to a measure by delivering it to the Executive Secretary within sixty days of the date of transmittal specified pursuant to subparagraph 1(a), any other Contracting Party may similarly present an objection prior to the expiration of an additional twenty day period, or within fifteen days after the date of transmittal specified in the notification to the Contracting Parties of any objection presented within that additional twenty day period, whichever shall be later. The measure shall then become binding on each Contracting Party, except any that has presented an objection. If, however, at the end of such extended period or periods, objections have been presented and maintained by a majority of Contracting Parties, the measure shall not become binding, unless any or all of the Contracting Parties nevertheless agree as among themselves to be bound by it on an agreed date.
3. Any Contracting Party that has presented an objection may withdraw it at any time and the measure shall then become binding on it.
4.
 - (a) Any time after the expiration of one year from the date on which a measure enters into force, any Contracting Party may notify the Executive Secretary of its intention not to be bound by the measure and, if that notification is not withdrawn, the measure shall cease to be binding on it at the end of one year from the date of receipt of such notification by the Executive Secretary.
 - (b) Any time after a measure has ceased to be binding on a Contracting Party pursuant to subparagraph (a), the measure shall cease to be binding on any other Contracting Party on the date the Executive Secretary receives notification of its intention not to be bound.
5. Any Contracting Party that has presented an objection to a measure pursuant to paragraph 2 or given notification of its intention not to be bound by a measure pursuant to paragraph 4 shall at the same time provide an explanation for its reasons for taking this action. This explanation shall specify whether it considers that the measure is inconsistent with the provisions of this Convention, or that the measure unjustifiably discriminates in form or fact against it. The explanation shall also include a declaration of the actions it intends to take following the objection or -notification, including a description of the alternative measures it intends to take or has taken for conservation and management of the relevant fishery resources consistent with the objective of this Convention.
6. The Executive Secretary shall immediately notify each Contracting Party of:
 - (a) the receipt or withdrawal of any objection pursuant to paragraph 2 or 3;
 - (b) the date on which any measure becomes binding pursuant to paragraph 1;
 - (c) the receipt of any notification pursuant to paragraph 4; and
 - (d) each explanation and description of alternative measures received pursuant to paragraph 5.
7. Any Contracting Party that invokes the procedure set out in paragraphs 2, 4 or 5, may at the same time submit the matter to *ad hoc* panel proceedings. Annex II shall apply *mutatis mutandis*.
8. Where a Contracting Party does not submit the matter to *ad hoc* panel proceedings pursuant to paragraph 7, the Commission shall decide by simple majority mail vote, whether to submit that Contracting Party's explanation made pursuant to paragraph 5 to such proceedings. Where the Commission decides to submit the matter to such proceedings, Annex II shall apply *mutatis mutandis*.
9. Where, pursuant to paragraph 8, the Commission decides not to submit the matter to *ad hoc* panel proceedings, any Contracting Party may request a meeting of the Commission to review the measure adopted by the Commission and the explanation made pursuant to paragraph 5.
10. An *ad hoc* panel constituted pursuant to paragraph 7 or 8 shall review the explanation made pursuant to paragraph 5 and the measure to which it relates and make recommendations to the Commission on:
 - (a) whether the explanation provided by the Contracting Party pursuant to paragraph 5 is well founded, and if so, whether the measure should accordingly be modified or rescinded, or where it finds that the explanation is not well founded, whether the measure should be maintained; and
 - (b) whether the alternative measures set out in the explanation made by the Contracting Party pursuant paragraph 5 are consistent with the objective of this Convention and preserve the respective rights of all Contracting Parties.

11. No later than thirty days following the termination of the *ad hoc* panel proceedings pursuant to this Article, the Commission shall meet to consider the recommendations of the *ad hoc* panel.
12. Where the procedures set out in paragraphs 7 to 11 have been concluded, any Contracting Party may invoke the dispute settlement procedures set out in Article XV.

Article XV – Settlement of Disputes

1. Contracting Parties shall co-operate in order to prevent disputes.
2. Where a dispute arises between two or more Contracting Parties concerning the interpretation or application of this Convention, including the explanation referred to in Article XIV, paragraph 5, any actions taken by a Contracting Party following an objection presented pursuant to Article XIV, paragraph 2, or any notification made pursuant of Article XIV, paragraph 4, those Contracting Parties, hereinafter referred to as “Contracting Parties to the dispute”, shall seek to resolve their dispute by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, *ad hoc* panel proceedings or other peaceful means of their choice.
- ➔ 3. Where a dispute concerns the interpretation or application of a measure adopted by the Commission pursuant to [Article VI, paragraph 7 and 8], or matters related thereto, including the explanation referred to in Article XIV, paragraph 5, any actions taken by a Contracting Party to the dispute following an objection presented pursuant to Article XIV, paragraph 2, or notification made pursuant to Article XIV, paragraph 4, the Contracting Parties to the dispute may submit the dispute to non binding *ad hoc* panel proceedings pursuant to Annex II.
4. Where a dispute has been submitted to *ad hoc* panel proceedings, the *ad hoc* panel shall at the earliest opportunity confer with the Contracting Parties to the dispute with a view to resolving the dispute expeditiously. The *ad hoc* panel shall present a report to the Contracting Parties to the dispute and through the Executive Secretary to the other Contracting Parties. The report shall include any recommendations that the *ad hoc* panel considers appropriate to resolve the dispute.
5. Where the Contracting Parties to the dispute accept the recommendations of the *ad hoc* panel, they shall within fourteen days of receipt of the report of the *ad hoc* panel notify all other Contracting Parties, through the Executive Secretary, of the actions they intend to take with a view to implementing the recommendations. Thereupon, the recommendations of the *ad hoc* panel may be referred for consideration by the Commission in accordance with its appropriate procedures.
6. Where no settlement has been reached following the recommendations of the *ad hoc* panel, any of the Contracting Parties to the dispute may submit the dispute to compulsory proceedings entailing binding decisions pursuant to Section 2 of Part XV of the 1982 Convention or Part VIII of the 1995 Agreement.
7. Where the Contracting Parties to a dispute have agreed to submit the dispute to *ad hoc* panel proceedings, they may at the same time agree to apply provisionally the relevant measure adopted by the Commission until the report of the *ad hoc* panel is presented unless they have settled the dispute by other means.
8. Where the Contracting Parties to a dispute are unable to agree on any peaceful means referred to in paragraph 2 to resolve their dispute or are unable to otherwise reach a settlement, the dispute shall at the request of one of them, be submitted to compulsory proceedings entailing a binding decision pursuant to Part XV, Section 2, of the 1982 Convention or Part VIII of the 1995 Agreement.
9. Where recourse is made to compulsory proceedings entailing binding decisions, the Contracting Parties to the dispute shall, unless they agree otherwise, provisionally apply any recommendation made by the *ad hoc* panel pursuant to paragraph 4 or, where applicable, pursuant to Article XIV, paragraph 10. They shall continue to apply such provisional measures or any arrangements of equivalent effect agreed between them until a court or tribunal having jurisdiction over the dispute prescribes provisional measures or renders a decision, or, until the expiration of the measure in question.
10. The notification provisions of paragraph 5 shall apply *mutatis mutandis* with respect to provisional measures applied pursuant to paragraph 7 or prescribed pursuant to paragraph 9 or to any decision of a court or tribunal to which the dispute has been submitted.

11. A court, tribunal or *ad hoc* panel to which a dispute has been submitted pursuant to this Article shall apply the relevant provisions of this Convention, the 1982 Convention, the 1995 Agreement, generally accepted standards for the conservation and management of living resources and other rules of international law not incompatible with this Convention with a view to attaining the objective of this Convention.
12. Nothing in this Convention shall be argued or construed to prevent a Contracting Party to a dispute, as State Party to the 1982 Convention, from submitting the dispute to compulsory procedures entailing binding decisions against another State Party pursuant to Section 2 of Part XV of the 1982 Convention, or as State Party to the 1995 Agreement from submitting the dispute to compulsory procedures entailing binding decisions against another State Party pursuant to Article 30 of the 1995 Agreement.

Article XVI - Co-operation with non-Contracting Parties

1. Where a vessel entitled to fly the flag of a non-Contracting Party engages in fishing activities in the Regulatory Area, the Commission shall request the flag State to cooperate fully with the Organization either by becoming a Contracting Party or by agreeing to apply the conservation and management measures adopted by the Commission.
2. Contracting Parties shall:
 - (a) exchange information on fishing activities in the Regulatory Area by vessels entitled to fly the flag of any non-Contracting Party and on any action they have taken in response to such fishing activities;
 - (b) take measures consistent with this Convention and international law to deter fishing activities of vessels entitled to fly the flag of any non-Contracting Party that undermine the effectiveness of the conservation and management measures adopted by the Commission;
 - (c) advise any non-Contracting Party to this Convention of any fishing activity by its nationals or vessels entitled to fly its flag that undermine the effectiveness of the conservation and management measures adopted by the Commission; and
 - (d) seek co-operation with any non-Contracting Party that has been identified as importing, exporting or re-exporting fishery products derived from fishing activities in the Convention Area.

Article XVII – Co-operation with other organizations

The Organization shall:

- (a) cooperate, as appropriate, on matters of mutual interest, with the Food and Agriculture Organization of the United Nations, with other specialized agencies of the United Nations and with other relevant organizations;
- (b) seek to develop cooperative working relationships and may enter into agreements for this purpose with intergovernmental organizations that can contribute to its work and have competence for ensuring the long-term conservation and sustainable use of living resources and their ecosystems. It may invite such organizations to send observers to its meetings or those of any of its subsidiary bodies; it may also seek to participate in meetings of such organizations as appropriate; and
- (c) cooperate with other relevant regional fisheries management organizations taking note of their conservation and management measures.

Article XVIII –Review

The Commission shall periodically initiate reviews and assessments of the adequacy of provisions of this Convention and, if necessary, propose means for strengthening their substance and methods of implementation in order to address any problems in attaining the objective of this Convention.

Article XIX– Annexes

The Annexes shall form an integral part of this Convention and unless expressly provided otherwise, reference to this Convention includes reference to the Annexes.

Article XX – Good faith and abuse of rights

Contracting Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights recognized in this Convention in a manner which would not constitute an abuse of right.

Article XXI – Relation to other Agreements

1. This Convention shall not alter the rights and obligations of Contracting Parties that arise from other Agreements compatible with this Convention and that do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.
2. Nothing in this Convention shall prejudice the rights, jurisdiction and duties of Contracting Parties under the 1982 Convention or the 1995 Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the 1995 Agreement.

Article XXII – Amendments to the Convention

1. Any Contracting Party may propose amendments to this Convention to be considered and acted upon by the Commission at its annual meeting or at a special meeting. Any such proposal shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and the Executive Secretary shall immediately transmit the proposal to each Contracting Party.
2. Adoption of a proposed amendment shall require a three-fourths majority of the votes of all Contracting Parties. The text of any amendment so adopted shall be transmitted by the Depositary to each Contracting Party.
3. An amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary of receipt of written notification of approval by three-fourths of all Contracting Parties unless within ninety days of the date of transmittal specified in the notification by the Depositary of such receipt, any other Contracting Party notifies the Depositary that it objects to the amendment, in which case the amendment shall not take effect for any Contracting Party. Any Contracting Party that has objected to an amendment may at any time withdraw that objection. If all objections to an amendment that has been approved by three-fourths of all Contracting Parties are withdrawn, the amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary, of receipt of the last withdrawal.
4. Any party that becomes a Contracting Party to the Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved that amendment.
5. The Depositary shall promptly notify all Contracting Parties of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments.
6. Notwithstanding paragraphs 1 through 5, the Commission may by a two-thirds majority vote of all Contracting Parties:
 - (a) taking into account the advice of the Scientific Council, if it considers it necessary for management purposes, divide the Regulatory Area into scientific and statistical subareas, regulatory divisions and subdivisions, as appropriate. The boundaries of any such subareas, divisions and subdivisions shall be set out in Annex I;
 - (b) at the request of the Scientific Council, if it considers it necessary for management, scientific or statistical purposes, modify the boundaries of the scientific and statistical subareas, divisions and subdivisions set out in Annex I, provided that each coastal State affected concurs in such action.

Article XXIII - Signature, Ratification, Acceptance and Approval

1. This Convention shall be open for signature at Ottawa until 31 December 1978, by the Parties represented at the Diplomatic Conference on the Future of Multilateral Cooperation in the Northwest Atlantic Fisheries, held at Ottawa from 11 to 21 October 1977. It shall thereafter be open for accession.

2. This Convention shall be subject to ratification, acceptance or approval by the Signatories and the instruments of ratification, acceptance or approval shall be deposited with the Government of Canada, referred to in this Convention as "the Depositary".
3. This Convention shall enter into force upon the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than six Signatories; at least one of which exercises fisheries jurisdiction in waters forming part of the Convention Area.
4. Any party which has not signed this Convention may accede thereto by a notification in writing to the Depositary. Accessions received by the Depositary prior to the date of entry into force of this Convention shall become effective on the date this Convention enters into force. Accessions received by the Depositary after the date of entry into force of this Convention shall become effective on the date of receipt by the Depositary.
5. The Depositary shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and accessions received.

Article XXIV - Denunciation

1. A Contracting Party may denounce this Convention by written notification to the Depositary on or before 30 June of any year. The denunciation shall take effect on 31 December of that same year. The Depositary shall without delay notify all other Contracting Parties.
2. Any other Contracting Party may thereupon by written notification to the Depositary no later than thirty days following notification pursuant to paragraph 1 also denounce the Convention with effect on 31 December of that year. The Depositary shall without delay notify all other Contracting Parties.

Article XXV - Registration

1. The original of the present Convention shall be deposited with the Government of Canada, which shall communicate certified copies thereof to all the Signatories and to all the Contracting Parties.
2. The Depositary shall register the present Convention and any amendment thereof with the Secretariat of the United Nations.

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

DONE at Ottawa, this 24th day of October, 1978, in a single original, in the English and French languages, each text being equally authentic.

FOR BULGARIA:
 FOR CANADA:
 FOR CUBA:
 FOR DENMARK (IN RESPECT OF THE FAROE ISLANDS):
 FOR THE EUROPEAN ECONOMIC COMMUNITY:
 FOR THE GERMAN DEMOCRATIC REPUBLIC:
 FOR ICELAND:
 FOR JAPAN:
 FOR NORWAY:
 FOR POLAND:
 FOR PORTUGAL:
 FOR ROMANIA:
 FOR SPAIN:
 FOR THE UNION OF SOVIET SOCIALIST REPUBLICS:
 FOR THE UNITED STATES OF AMERICA:

The Under-Secretary of State for External Affairs certifies that this is a true copy of the original deposited in the Treaty Archives of the Government of Canada.

Under-Secretary of State for External Affairs

Annex 4. EU Proposal

Format for Proposal to amend the NAFO Convention

by (CP name)

The (C.P. name) as a Contracting Party hereby proposes that amendments be made to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. This proposal for amendments is to be acted upon at this year's Annual Meeting in Portugal in September. It is hereby requested that the proposal be dealt with in accordance with the procedure set out in Article XXI paragraph 1 of the said Convention.

Explanatory Memorandum

At the 2005 Annual Meeting, NAFO Parties agreed to launch a reform of the Organization. This reform process included the creation of a Working Group which was requested to review and if appropriate revise the NAFO Convention. This working Group met on two occasions in 2006.

During an Extraordinary session of the General Council in Montreal from 19 to 20 April 2007, the General Council approved the conclusions of the Working Group and Parties agreed that a proposal amending the NAFO Convention be submitted ninety days prior to the 2007 Annual Meeting in application of Article XXI paragraph 1 of the said Convention.

This proposal was elaborated by a Technical Working Group which met in Brussels from 22-23 May 2007.

Proposal

The Contracting Parties to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (hereinafter "Convention") have agreed as follows:

Article 1

The title of the Convention shall be amended to read as follows;

"Convention on Cooperation in the Northwest Atlantic Fisheries"

Article 2

The Preamble of the Convention shall be deleted and replaced by the following new Preamble:

...*(Insert preamble from edited (June 20) version of GC WP 07/12)*

Article 3

Articles I – XXI shall be deleted and replaced by the following new Articles:

...*(Insert Articles I-XXII from edited (June 20) version GC WP 07/12)*

Article 4

Article XXII shall be renumbered as Article XXIII.

Article 5

Article XXIII shall be deleted.

Article 6

Articles XXIV and XXV shall be deleted and replaced by the following new Articles:

"Article XXIV – Denunciation

1. *A Contracting Party may denounce this Convention by written notification to the Depositary on or before 30 June of any year. The denunciation shall take effect on 31 December of that same year. The Depositary shall without delay notify all other Contracting Parties.*
2. *Any other Contracting Party may thereupon by written notification to the Depositary no later than 30 days following notification also denounce the Convention with effect on 31 December of that year. The Depositary shall pursuant to paragraph 1 without delay notify all other Contracting Parties."*

Article XXV – Registration

1. *The original of the present Convention shall be deposited with the Government of Canada, which shall communicate certified copies thereof to all the Signatories and to all the Contracting Parties.*
2. *The Depositary shall register the present Convention and any amendment thereof with the Secretariat of the United Nations."*

Article 7

Annexes I – II shall be deleted:

Article 8

Annex III shall be replaced by the following 2 Annexes:

... (Insert Annexes from GC WP 07/12, Revision 4)