

**DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA**

SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT

Rome, 29 December 2006

Signed for Australia in Rome, 29 December 2006

Not yet in force
[2006] ATNIF 31

SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT

THE CONTRACTING PARTIES

HAVING A MUTUAL INTEREST in the proper management, long-term conservation and sustainable use of fishery resources in the Southern Indian Ocean, and desiring to further the attainment of their objectives through international cooperation;

TAKING INTO CONSIDERATION that the coastal States have waters under national jurisdiction in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and general principles of international law, within which they exercise their sovereign rights for the purpose of exploring and exploiting, conserving and managing fishery resources and conserving living marine resources upon which fishing has an impact;

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 December 1995, and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and 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;

RECALLING FURTHER Article 17 of 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 1995, and the need for non-Contracting Parties to this Southern Indian Ocean Fisheries Agreement to apply the conservation and management measures adopted hereunder and not to authorise vessels flying their flag to engage in fishing activities inconsistent with the conservation and sustainable use of the fishery resources to which this Agreement applies;

RECOGNIZING economic and geographical considerations and the special requirements of developing States, in particular the least-developed among them and small island developing States and their coastal communities, for equitable benefit from fishery resources;

DESIRING cooperation between coastal States and all other States, organizations and fishing entities having an interest in the fishery resources of the Southern Indian Ocean to ensure compatible conservation and management measures;

BEARING IN MIND that the achievement of the above will contribute to the realization of a just and equitable economic order in the interests of all humankind, and in particular the special interests and needs of developing States, in particular the least-developed among them and small island developing States;

CONVINCED that the conclusion of a multilateral agreement for the long-term conservation and sustainable use of fishery resources in waters beyond national jurisdiction in the Southern Indian Ocean would best serve these objectives;

AGREE AS FOLLOWS:

ARTICLE 1 – DEFINITIONS

For the purposes of this Agreement:

(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 December 1995;

(c) "Area" means the area to which this Agreement applies, as prescribed in Article 3;

(d) "Code of Conduct" means 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;

(e) "Contracting Party" means any State or regional economic integration organization which has consented to be bound by this Agreement and for which the Agreement is in force;

(f) "fishery resources" means resources of fish, molluscs, crustaceans and other sedentary species within the Area, but excluding:

(i) sedentary species subject to the fishery jurisdiction of coastal States pursuant to Article 77(4) of the 1982 Convention; and

(ii) highly migratory species listed in Annex I of the 1982 Convention;

(g) "fishing" means:

(i) the actual or attempted searching for, catching, taking or harvesting of fishery resources;

(ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fishery resources for any purpose including scientific research;

(iii) placing, searching for or recovering any aggregating device for fishery resources or associated equipment including radio beacons;

(iv) any operation at sea in support of, or in preparation for, any activity described in this definition, except for any operation in emergencies involving the health or safety of crew members or the safety of a vessel; or

(v) the use of an aircraft in relation to any activity described in this definition except for flights in emergencies involving the health or safety of crew members or the safety of a vessel;

(h) "fishing entity" means a fishing entity as referred to in Article 1(3) of the 1995 Agreement;

(i) "fishing vessel" means any vessel used or intended for fishing, including a mother ship, any other vessel directly engaged in fishing operations, and any vessel engaged in transshipment;

(j) "nationals" includes both natural and legal persons;

(k) "regional economic integration organization" means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;

(l) "transshipment" means the unloading of all or any of the fishery resources on board a fishing vessel onto another vessel whether at sea or in port.

ARTICLE 2 – OBJECTIVES

The objectives of this Agreement are to ensure the long-term conservation and sustainable use of the fishery resources in the Area through cooperation among the Contracting Parties, and to promote the sustainable development of fisheries in the Area, taking into account the needs of developing States bordering the Area that are Contracting Parties to this Agreement, and in particular the least-developed among them and small island developing States.

ARTICLE 3 – AREA OF APPLICATION

1. This Agreement applies to the Area bounded by a line joining the following points along parallels of latitude and meridians of longitude, excluding waters under national jurisdiction:

Commencing at the landfall on the continent of Africa of the parallel of 10° North; from there east along that parallel to its intersection with the meridian of 65° East; from there south along that meridian to its intersection with the equator; from there east along the equator to its intersection with the meridian of 80° East; from there south along that meridian to its intersection with the parallel of 20° South; from there east along that parallel to its landfall on the continent of Australia; from there south and then east along the coast of Australia to its intersection with the meridian of 120° East; from there south along that meridian to its intersection with the parallel of 55° South; from there west along that parallel to its intersection with the meridian of 80° East; from there north along that meridian to its intersection with the parallel of 45° South; from there west along that parallel to its intersection with the meridian of 30° East; from there north along that meridian to its landfall on the continent of Africa.

2. Where for the purpose of this Agreement it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by

reference to the International Terrestrial Reference System maintained by the International Earth Rotation Service, which for most practical purposes is equivalent to the World Geodetic System 1984 (WGS84).

ARTICLE 4 – GENERAL PRINCIPLES

In giving effect to the duty to cooperate in accordance with the 1982 Convention and international law, the Contracting Parties shall apply, in particular, the following principles:

(a) measures shall be adopted on the basis of the best scientific evidence available to ensure the long-term conservation of fishery resources, taking into account the sustainable use of such resources and implementing an ecosystem approach to their management;

(b) measures shall be taken to ensure that the level of fishing activity is commensurate with the sustainable use of the fishery resources;

(c) the precautionary approach shall be applied in accordance with the Code of Conduct and the 1995 Agreement, whereby the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures;

(d) the fishery resources shall be managed so that they are maintained at levels that are capable of producing the maximum sustainable yield, and depleted stocks of fishery resources are rebuilt to the said levels;

(e) fishing practices and management measures shall take due account of the need to minimize the harmful impact that fishing activities may have on the marine environment;

(f) biodiversity in the marine environment shall be protected; and

(g) the special requirements of developing States bordering the Area that are Contracting Parties to this Agreement, and in particular the least-developed among them and small island developing States, shall be given full recognition.

ARTICLE 5 – MEETING OF THE PARTIES

1. The Contracting Parties shall meet periodically to consider matters pertaining to the implementation of this Agreement and to make all decisions relevant thereto.

2. The ordinary Meeting of the Parties shall, unless the Meeting otherwise decides, take place at least once a year and, to the extent practicable, back-to-back with meetings of the South West Indian Ocean Fisheries Commission. The Contracting Parties may also hold extraordinary meetings when deemed necessary.

3. The Meeting of the Parties shall, by consensus, adopt and amend its own Rules of Procedure and those of its subsidiary bodies.

4. The Contracting Parties, at their first meeting, shall consider the adoption of a budget

to fund the conduct of the Meeting of the Parties and the exercise of its functions and accompanying financial regulations. The financial regulations shall set out the criteria governing the determination of the amount of each Contracting Party's contribution to the budget, giving due consideration to the economic status of Contracting Parties which are developing States, and in particular the least-developed among them and small island developing States, and ensuring that an adequate share of the budget is borne by Contracting Parties that benefit from fishing in the Area.

ARTICLE 6 – FUNCTIONS OF THE MEETING OF THE PARTIES

1. The Meeting of the Parties shall:

(a) review the state of fishery resources, including their abundance and the level of their exploitation;

(b) promote and, as appropriate, co-ordinate research activities as required on the fishery resources and on straddling stocks occurring in waters under national jurisdiction adjacent to the Area, including discarded catch and the impact of fishing on the marine environment;

(c) evaluate the impact of fishing on the fishery resources and on the marine environment, taking into account the environmental and oceanographic characteristics of the Area, other human activities and environmental factors;

(d) formulate and adopt conservation and management measures necessary for ensuring the long-term sustainability of the fishery resources, taking into account the need to protect marine biodiversity, based on the best scientific evidence available;

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

(f) develop rules for the collection and verification of scientific and statistical data, as well as for the submission, publication, dissemination and use of such data;

(g) promote cooperation and coordination among Contracting Parties to ensure that conservation and management measures for straddling stocks occurring in waters under national jurisdiction adjacent to the Area and measures adopted by the Meeting of the Parties for the fishery resources are compatible;

(h) develop rules and procedures for the monitoring, control and surveillance of fishing activities in order to ensure compliance with conservation and management measures adopted by the Meeting of the Parties including, where appropriate, a system of verification incorporating vessel monitoring and observation, and rules concerning the boarding and inspection of vessels operating in the Area;

(i) develop and monitor measures to prevent, deter and eliminate illegal, unreported and unregulated fishing;

(j) in accordance with international law and any applicable instruments, draw the attention of any non-Contracting Parties to any activities which undermine the attainment of the objectives of this Agreement;

(k) establish the criteria for and rules governing participation in fishing; and

(l) carry out any other tasks and functions necessary to achieve the objectives of this Agreement.

2. In determining criteria for participation in fishing, including allocation of total allowable catch or total level of fishing effort, the Contracting Parties shall take into account, inter alia, international principles such as those contained in the 1995 Agreement.

3. In applying the provisions of paragraph 2, the Contracting Parties may, inter alia:

(a) designate annual quota allocations or fishing effort limitations for Contracting Parties;

(b) allocate catch quantities for exploration and scientific research; and

(c) set aside fishing opportunities for non-Contracting Parties to this Agreement, if necessary.

4. The Meeting of Parties shall, subject to agreed rules, review quota allocations and fishing effort limitations of Contracting Parties and participation in fishing opportunities of non-Contracting Parties taking into account, inter alia, information on the implementation by Contracting and non-Contracting Parties of the conservation and management measures adopted by the Meeting of the Parties.

ARTICLE 7 – SUBSIDIARY BODIES

1. The Meeting of the Parties shall establish a permanent Scientific Committee, which shall meet, unless the Meeting of the Parties otherwise decides, at least once a year, and preferably prior to the Meeting of the Parties, in accordance with the following provisions:

(a) the functions of the Scientific Committee shall be:

(i) to conduct the scientific assessment of the fishery resources and the impact of fishing on the marine environment, taking into account the environmental and oceanographic characteristics of the Area, and the results of relevant scientific research;

(ii) to encourage and promote cooperation in scientific research in order to improve knowledge of the state of the fishery resources;

(iii) to provide scientific advice and recommendations to the Meeting of the Parties for the formulation of the conservation and management measures referred to in Article 6(1)(d);

(iv) to provide scientific advice and recommendations to the Meeting of the Parties for the formulation of measures regarding the monitoring of fishing activities;

(v) to provide scientific advice and recommendations to the Meeting of the Parties on appropriate standards and format for fishery data collection and exchange; and

(vi) any other scientific function that the Meeting of the Parties may decide;

(b) in developing advice and recommendations the Scientific Committee shall take into consideration the work of the South West Indian Ocean Fisheries Commission as well as that of other relevant research organizations and regional fisheries management organizations.

2. Once the measures referred to in Article 6 are taken, the Meeting of the Parties shall establish a Compliance Committee, to verify the implementation of and compliance with such measures. The Compliance Committee shall meet, in conjunction with the Meeting of the Parties, as provided for in the Rules of Procedure and shall report, advise and make recommendations to the Meeting of the Parties.

3. The Meeting of the Parties may also establish such temporary, special or standing committees as may be required, to study and report on matters pertaining to the implementation of the objectives of this Agreement, and working groups to study, and submit recommendations on, specific technical problems.

ARTICLE 8 – DECISION MAKING

1. Unless otherwise provided in this Agreement, decisions of the Meeting of the Parties and its subsidiary bodies on matters of substance shall be taken by the consensus of the Contracting Parties present, where consensus means the absence of any formal objection made at the time a decision is taken. The question of whether a matter is one of substance shall be treated as a matter of substance.

2. Decisions on matters other than those referred to in paragraph 1 shall be taken by a simple majority of the Contracting Parties present and voting.

3. Decisions adopted by the Meeting of the Parties shall be binding on all Contracting Parties.

ARTICLE 9 – SECRETARIAT

The Meeting of the Parties shall decide on arrangements for the carrying out of secretariat services, or the establishment of a Secretariat, to perform the following functions:

(a) implementing and coordinating the administrative provisions of this Agreement, including the compilation and distribution of the official report of the Meeting of the Parties;

(b) maintaining a complete record of the proceedings of the Meeting of the Parties and its subsidiary bodies, as well as a complete archive of any other official documents pertaining to the implementation of this Agreement; and

(c) any other function that the Meeting of the Parties may decide.

ARTICLE 10 – CONTRACTING PARTY DUTIES

1. Each Contracting Party shall, in respect of its activities within the Area:

(a) promptly implement this Agreement and any conservation, management and other measures or matters which may be agreed by the Meeting of the Parties;

(b) take appropriate measures in order to ensure the effectiveness of the measures adopted by the Meeting of the Parties;

(c) collect and exchange scientific, technical and statistical data with respect to the fishery resources and ensure that:

(i) data is collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements set forth in the rules adopted by the Meeting of the Parties;

(ii) appropriate measures are taken to verify the accuracy of such data;

(iii) such statistical, biological and other data and information as the Meeting of the Parties may decide is provided annually; and

(iv) information on steps taken to implement the conservation and management measures adopted by the Meeting of the Parties is provided in a timely manner.

2. Each Contracting Party shall make available to the Meeting of the Parties a statement of implementing and compliance measures, including imposition of sanctions for any violations, it has taken in accordance with this Article and, in the case of coastal States that are Contracting Parties to this Agreement, as regards the conservation and management measures they have taken for straddling stocks occurring in waters under their jurisdiction adjacent to the Area.

3. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall, to the greatest extent possible, take measures, or cooperate, to ensure that its nationals and fishing vessels owned or operated by its nationals fishing in the Area comply with the provisions of this Agreement and with the conservation and management measures adopted by the Meeting of the Parties.

4. Each Contracting Party shall, to the greatest extent possible, at the request of any other Contracting Party, and when provided with the relevant information, investigate any alleged serious violation within the meaning of the 1995 Agreement by its nationals, or fishing vessels owned or operated by its nationals, of the provisions of this Agreement or any conservation and management measure adopted by the Meeting of the Parties. A reply, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to all Contracting Parties as soon as practicable and in any case within two (2) months of such request. A report on the outcome of the investigation shall be provided to the Meeting of the Parties when the investigation is completed.

ARTICLE 11 – FLAG STATE DUTIES

1. Each Contracting Party shall take such measures as may be necessary to ensure that:

(a) fishing vessels flying its flag operating in the Area comply with the provisions of this Agreement and the conservation and management measures adopted by the Meeting of the Parties and that such vessels do not engage in any activity which undermines the effectiveness of such measures;

(b) fishing vessels flying its flag do not conduct unauthorized fishing within waters under national jurisdiction adjacent to the Area; and

(c) it develops and implements a satellite vessel monitoring system for fishing vessels flying its flag and fishing in the Area.

2. No Contracting Party shall allow any fishing vessel entitled to fly its flag to be used for fishing in the Area unless it has been authorised to do so by the appropriate authority or authorities of that Contracting Party.

3. Each Contracting Party shall:

(a) authorize the use of vessels flying its flag for fishing in waters beyond national jurisdiction only where it is able to exercise effectively its responsibilities in respect of such vessels under this Agreement and in accordance with international law;

(b) maintain a record of fishing vessels entitled to fly its flag and authorized to fish for the fishery resources, and ensure that, for all such vessels, such information as may be specified by the Meeting of the Parties is entered in that record. Contracting Parties shall exchange this information in accordance with such procedures as may be agreed by the Meeting of the Parties;

(c) in conformity with the rules determined by the Meeting of the Parties, make available to each annual Meeting of the Parties a report on its fishing activities in the Area;

(d) collect and share in a timely manner, complete and accurate data concerning fishing activities by vessels flying its flag operating in the area, in particular on vessel position, retained catch, discarded catch and fishing effort, where appropriate maintaining confidentiality of data as it relates to the application of relevant national legislation; and

(e) to the greatest extent possible, at the request of any other Contracting Party, and when provided with the relevant information, investigate any alleged serious violation within the meaning of the 1995 Agreement by fishing vessels flying its flag of the provisions of this Agreement or any conservation and management measure adopted by the Meeting of the Parties. A reply, including details of any action taken or proposed to be taken in relation to such alleged violation, shall be provided to all Contracting Parties as soon as practicable and in any case within two (2) months of such request. A report on the outcome of the investigation shall be provided to the Meeting of the Parties when the investigation is completed.

ARTICLE 12 – PORT STATE DUTIES

1. Measures taken by a port State Contracting Party in accordance with this Agreement shall take full account of the right and the duty of a port State to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures, a port

State Contracting Party shall not discriminate in form or in fact against the fishing vessels of any State.

2. Each port State Contracting Party shall:

(a) in accordance with the conservation and management measures adopted by the Meeting of the Parties, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals;

(b) not permit landings, transshipment, or supply services in relation to fishing vessels unless they are satisfied that fish on board the vessel have been caught in a manner consistent with the conservation and management measures adopted by the Meeting of the Parties; and

(c) provide assistance to flag State Contracting Parties, as reasonably practical and in accordance with its national law and international law, when a fishing vessel is voluntarily in its ports or at its offshore terminals and the flag State of the vessel requests it to provide assistance in ensuring compliance with the provisions of this Agreement and with the conservation and management measures adopted by the Meeting of the Parties.

3. In the event that a port State Contracting Party considers that a vessel of another Contracting Party making use of its ports or offshore terminals has violated a provision of this Agreement or a conservation and management measure adopted by the Meeting of the Parties, it shall draw this to the attention of the flag State concerned and of the Meeting of the Parties. The port State Contracting Party shall provide the flag State and the Meeting of the Parties with full documentation of the matter, including any record of inspection.

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

ARTICLE 13 – SPECIAL REQUIREMENTS OF DEVELOPING STATES

1. The Contracting Parties shall give full recognition to the special requirements of developing States bordering the Area, in particular the least-developed among them and small island developing States, in relation to the conservation and management of fishery resources and the sustainable development of such resources.

2. The Contracting Parties recognize, in particular:

(a) the vulnerability of developing States bordering the Area, in particular the least-developed among them and small island developing States, that are dependent on the exploitation of fishery resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and fishworkers; and

(c) the need to ensure that conservation and management measures adopted by the Meeting of the Parties do not result in transferring, directly or indirectly, a

disproportionate burden of conservation action onto developing States bordering the Area, in particular the least-developed among them and small island developing States.

3. Cooperation by the Contracting Parties under the provisions of this Agreement and through other subregional or regional organizations involved in the management of marine living resources should include action for the purposes of:

(a) enhancing the ability of developing States bordering the Area, in particular the least-developed among them and small island developing States, to conserve and manage fishery resources and to develop their own fisheries for such resources; and

(b) assisting developing States bordering the Area, in particular the least-developed among them and small island developing States, to enable them to participate in fisheries for such resources, including facilitating access in accordance with this Agreement.

4. Cooperation with developing States bordering the Area, in particular the least-developed among them and small island developing States, for the purposes set out in this Article should include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, and activities directed specifically towards:

(a) improved conservation and management of the fishery resources and of straddling stocks occurring in waters under national jurisdiction adjacent to the Area, which can include the collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) improved information collection and management of the impact of fishing activities on the marine environment;

(c) stock assessment and scientific research;

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

(e) participation in the Meeting of the Parties and meetings of its subsidiary bodies as well as in the settlement of disputes.

ARTICLE 14 – TRANSPARENCY

1. The Contracting Parties shall promote transparency in decision making processes and other activities carried out under this Agreement.

2. Coastal States with waters under national jurisdiction adjacent to the Area that are not Contracting Parties to this Agreement shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

3. Non-Contracting Parties to this Agreement shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

4. Intergovernmental organizations concerned with matters relevant to the implementation of this Agreement, in particular the Food and Agriculture Organization of the United Nations, the South West Indian Ocean Fisheries Commission, and regional fisheries management organizations with competence over high seas waters adjacent to the Area, shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

5. Representatives from non-governmental organizations concerned with matters relevant to the implementation of this Agreement shall be afforded the opportunity to participate in the Meeting of the Parties and meetings of its subsidiary bodies as observers or otherwise as determined by the Meeting of the Parties. The Rules of Procedure of the Meeting of the Parties and its subsidiary bodies shall provide for such participation. The procedures shall not be unduly restrictive in this respect.

6. Observers shall be given timely access to pertinent information subject to the Rules of Procedure, including those concerning confidentiality requirements, which the Meeting of the Parties may adopt.

ARTICLE 15 – FISHING ENTITIES

1. After the entry into force of this Agreement any fishing entity whose vessels have fished or intend to fish for fishery resources in the Area may, by a written instrument delivered to the Chairperson of the Meeting of the Parties, in accordance with such procedures as may be established by the Meeting of the Parties, express its firm commitment to be bound by the terms of this Agreement. Such commitment shall become effective thirty (30) days from the date of receipt of the instrument. Any such fishing entity may withdraw such commitment by written notification addressed to the Chairperson of the Meeting of the Parties. Notice of withdrawal shall become effective ninety (90) days from the date of its receipt by the Chairperson of the Meeting of the Parties.

2. A fishing entity which has expressed its commitment to be bound by the terms of this Agreement may participate in the Meeting of the Parties and its subsidiary bodies, and partake in decision making, in accordance with the Rules of Procedure adopted by the Meeting of the Parties. Articles 1 to 18 and 20.2 apply, *mutatis mutandis*, to such a fishing entity.

ARTICLE 16 – COOPERATION WITH OTHER ORGANIZATIONS

The Contracting Parties, acting jointly under this Agreement, shall cooperate closely with other international fisheries and related organizations in matters of mutual interest, in particular with the South West Indian Ocean Fisheries Commission and any other regional fisheries management organization with competence over high seas waters adjacent to the Area.

ARTICLE 17 – NON-CONTRACTING PARTIES

1. Contracting Parties shall take measures consistent with this Agreement, the 1995 Agreement and international law to deter the activities of vessels flying the flags of non-Contracting Parties to this Agreement which undermine the effectiveness of conservation and management measures adopted by the Meeting of the Parties or the attainment of the objectives of this Agreement.

2. Contracting Parties shall exchange information on the activities of fishing vessels flying the flags of non-Contracting Parties to this Agreement which are engaged in fishing operations in the Area.

3. Contracting Parties shall draw the attention of any non-Contracting Party to this Agreement to any activity undertaken by its nationals or vessels flying its flag which, in the opinion of the Contracting Party, undermines the effectiveness of conservation and management measures adopted by the Meeting of the Parties or the attainment of the objectives of this Agreement.

4. Contracting Parties shall, individually or jointly, request non-Contracting Parties to this Agreement whose vessels fish in the Area to cooperate fully in the implementation of conservation and management measures adopted by the Meeting of the Parties with a view to ensuring that such measures are applied to all fishing activities in the Area. Such cooperating non-Contracting Parties to this Agreement shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with, and

their record of compliance with, conservation and management measures in respect of the relevant stocks of fishery resources.

ARTICLE 18 – GOOD FAITH AND ABUSE OF RIGHT

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

ARTICLE 19 – RELATION TO OTHER AGREEMENTS

Nothing in this Agreement shall prejudice the rights and obligations of States under the 1982 Convention or the 1995 Agreement.

ARTICLE 20 – INTERPRETATION AND SETTLEMENT OF DISPUTES

1. Contracting Parties shall use their best endeavours to resolve their disputes by amicable means. At the request of any Contracting Party a dispute may be submitted for binding decision in accordance with the procedures for the settlement of disputes provided in Section II of Part XV of the 1982 Convention or, where the dispute concerns one or more straddling stocks, the procedures set out in Part VIII of the 1995 Agreement. The relevant part of the 1982 Convention and the 1995 Agreement shall apply whether or not the parties to the dispute are also parties to either of these instruments.

2. If a dispute involves a fishing entity which has expressed its commitment to be bound by the terms of this Agreement and cannot be settled by amicable means, the dispute shall, at the request of any party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.

ARTICLE 21 – AMENDMENTS

1. Any Contracting Party may propose an amendment to the Agreement by providing to the Depositary the text of a proposed amendment at least sixty (60) days in advance of an ordinary Meeting of the Parties. The Depositary shall circulate a copy of this text to all other Contracting Parties promptly.

2. Amendments to the Agreement shall be adopted by consensus of all Contracting Parties.

3. Amendments to the Agreement shall enter into force ninety (90) days after all Contracting Parties which held this status at the time the amendments were approved have deposited their instruments of ratification, acceptance, or approval of such amendments with the Depositary.

ARTICLE 22 – SIGNATURE, RATIFICATION, ACCEPTANCE AND APPROVAL

1. This Agreement shall be open for signature by:

(a) the States and regional economic integration organization participating in the Inter-Governmental Consultation on the Southern Indian Ocean Fisheries Agreement; and

(b) any other State having jurisdiction over waters adjacent to the Area;

and shall remain open for signature for twelve (12) months from 7 July 2006 (the date of opening for signature).

2. This Agreement is subject to ratification, acceptance or approval by the signatories.
3. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

ARTICLE 23 – ACCESSION

1. This Agreement shall be open for accession, after its closure for signature, by any State or regional economic integration organization referred to in Article 22.1, and by any other State or regional economic integration organization interested in fishing activities in relation to the fishery resources.
2. Instruments of accession shall be deposited with the Depositary.

ARTICLE 24 – ENTRY INTO FORCE

1. This Agreement shall enter into force ninety (90) days from the date of receipt by the Depositary of the fourth instrument of ratification, acceptance or approval, at least two of which have been deposited by coastal States bordering the Area.
2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force for that signatory thirty (30) days after the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force for that State or regional economic integration organization thirty (30) days after the deposit of its instrument of accession.

ARTICLE 25 – THE DEPOSITARY

1. The Director-General of the Food and Agriculture Organization of the United Nations shall be the Depositary of this Agreement and of any amendments thereto. The Depositary shall transmit certified copies of this Agreement to all signatories and shall register this Agreement with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations.
2. The Depositary shall inform all signatories of and Contracting Parties to this Agreement of signatures and of instruments of ratification, accession, acceptance or approval deposited under Articles 22 and 23 and of the date of entry into force of the Agreement under Article 24.

ARTICLE 26 – WITHDRAWAL

Any Contracting Party may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Contracting Party, by giving written notice of such withdrawal to the Depositary who shall immediately inform all the Contracting Parties of such withdrawal. Notice of withdrawal shall become effective ninety (90) days from the date of its receipt by the Depositary.

ARTICLE 27 – TERMINATION

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below three.

ARTICLE 28 – RESERVATIONS

1. Ratification, acceptance or approval of this Agreement may be made subject to reservations which shall become effective only upon unanimous acceptance by all Contracting Parties to this Agreement. The Depositary shall notify forthwith all Contracting Parties of any reservation. Contracting Parties not having replied within three (3) months from the date of notification shall be deemed to have accepted the reservation. Failing such acceptance, the State or regional economic integration organization making the reservation shall not become a Contracting Party to this Agreement.

2. Nothing in paragraph 1 shall prevent a State or a regional economic integration organization on behalf of a State from making a reservation with regard to membership acquired through territories and surrounding maritime areas over which the State asserts its rights to exercise sovereignty or territorial and maritime jurisdiction.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Agreement.

DONE in Rome on this Seventh day of July 2006 in English and French, both texts being equally authoritative.

In the name of Australia:

In the name of China:

In the name of Comoros: Siti Kassim

In the name of the European Community: Heidi Pihlatie

In the name of France: Charles Millon

In the name of the Islamic Republic of Iran:

In the name of Japan:

In the name of Kenya: Abu Chiaba Mohamed

In the name of Madagascar: Auguste Richard Paraima

In the name of Maldives:

In the name of Mauritius:

In the name of Mozambique: Cadmiel Filiane Mutemba

In the name of Namibia:

In the name of New Zealand: Adele Bryant

In the name of Republic of Korea:

In the name of the Russian Federation:

In the name of Seychelles: Callixte d'Offay

In the name of Somalia:

In the name of South Africa:

In the name of United Kingdom:

In the name of United Republic of Tanzania:

In the name of Yemen: