

### 3. Food and Agriculture Organization (FAO)

Communication transmitted to the Secretariat, 28 July 2022:

The Organization is pleased to provide the following examples of the Organization's practice in relation to the provisional application of treaties:

#### Multilateral Treaties

The *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* was approved by the FAO Conference at its Thirty-sixth Session (held in Rome, from 18 to 23 November 2009) pursuant paragraph 1 of Article XIV of the FAO Constitution, through Resolution No 12/2009 dated 22 November 2009 ("PSMA" or "Agreement"). The Agreement, for which the FAO Director-General is the Depositary, entered into force on 5 June 2016. Article 32 provides for provisional application as follows:

1. This Agreement shall be applied provisionally by States or regional economic integration organizations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.
2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the Depositary in writing of its intention to terminate provisional application.

As reflected in the Circular State Letter ("CSL") issued on 21/I/2021, on 1 January 2021, the United Kingdom on Great Britain and Northern Ireland ("United Kingdom") deposited an instrument of accession to the PSMA. While, according to its Article 29, paragraph 3, the Agreement entered into force for the United Kingdom on 31 January 2021, the instrument of accession was accompanied by a notification from the United Kingdom of its consent to the provisional application of the Agreement, pursuant to its Article 32, paragraph 1, as from the date of receipt of that notification by FAO, *i.e.* 1 January 2021. This instrument and notification were transmitted following the expiry of the *Agreement concerning the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community*, as reflected in the CSL issued on 3 March 2020. As provided in Article 32, paragraph 2, provisional application terminated upon the entry into force of the Agreement for the United Kingdom on 31 January 2022.<sup>208</sup>

#### Bilateral treaties

FAO has concluded a number of bilateral agreements for the establishment of FAO representations and liaison offices, and the provision of related privileges, immunities and exemptions, which have been applied on a provisional basis pending the completion of internal procedures by the Member Nations concerned, such as ratification by parliamentary bodies.

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<sup>208</sup> Relevant information and material can be accessed at: <https://www.fao.org/port-state-measures/resources/detail/en/c/1111616/> and <https://www.fao.org/treaties/results/details/en/c/TRE-000257>.