



## THE LAW OF THE SEA

# REPORT

## **The Regional Training Course on the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in Fisheries Perspective**

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6-9 November 2023  
Bangkok, Thailand

Training Department  
Southeast Asian Fisheries Development Center

TD/RP/237

**REPORT OF**

**THE REGIONAL TRAINING COURSE ON THE UNITED  
NATIONS CONVENTION ON THE LAW OF THE SEA 1982  
(UNCLOS 1982) IN FISHERIES PERSPECTIVE**

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**TRAINING DEPARTMENT**

**SOUTHEAST ASIAN FISHERIES DEVELOPMENT CENTER**

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## Report

### The Regional Training Course on the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in Fisheries Perspective

6-9 November 2023

#### I. Overview and Summary of Training

Regarding the “Regional Training Course on the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in Fisheries Perspective” under the project Strengthening Regional Cooperation and Enhancing National Capacities to Eliminate IUU Fishing in Southeast Asia was organized by the Training Department from 6 to 9 November 2023. The aim of the Regional Training is capacity building to enhance the knowledge of fisheries officers of AMSs on the UNCLOS 1982 in the context of fisheries, international and regional initiatives to prevent, deter, and eliminate Illegal, Unreported, and Unregulated (IUU) Fishing, national fisheries law and regulation of AMSs, information sharing and exchange of information on the National Plan of Action to prevent, deter, and eliminate Illegal, Unreported, and Unregulated fishing (NPOA-IUU) in AMSs, and understanding international agreement which aims at prevent, deter, and eliminate Illegal, Unreported, and Unregulated (IUU) Fishing.

There were 42 participants from SEAFDEC Member Countries including Cambodia, Indonesia, Myanmar, Malaysia, Lao PDR, Philippines, Singapore, Thailand, and Viet Nam and SEAFDEC Departments (Secretariat, Aquaculture Department, Marine Fishery Resources Development and Management Department, and Inland Fishery Resources Development and Management Department) attended this Regional Training which the list of participants as in **Annex 1** and the course curriculum as **Annex 2**. The activities are as follows:

The National Fisheries Law and Regulation Relevant to Combat IUU Fishing, National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU), and International Instrument relating to Fisheries Perspective through Prevent, Deter, and Eliminate IUU Fishing was presented by representative of SEAFDEC Member Countries. As shown in **Annex 3**.

The Overview of the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) was presented by Ms. Rachel Lucas from the Division for Ocean Affairs and the Law of the Sea (DOALOS), United Nations. Her presentation explained the global framework including UNCLOS, implementing agreement (Part XI Agreement, UNFSA, BBNJ), and other instruments and processes, an overview of the bodies established under the UNCLOS including the International Tribunal for the Law of the Sea (ITLOS), International Seabed Authority (ISA), Commission on the Limits of the Continental Shelf (CLCS), and Meeting of States Parties (MSP). The UNCLOS is an overarching legal regime for sustainable fisheries under international law.

Moreover, she explained maritime zones and special geographical characteristics. The UNCLOS sets out different maritime zones measured from baselines. In each zone, the rights and jurisdiction of the coastal State are balanced against the freedoms of other States, and in general, the further away from the coast, the less strong the rights and jurisdiction of the coastal State and the more freedoms other States. Moreover, she explained the activities that can be done in the maritime zone as navigation, fishing, marine science, mining and other activities under national jurisdiction, artificial islands installations and structures, submarine cables and pipelines, and protection and preservation of other marine environments which the UNCLOS sets out rights and obligations of States with regard to different activities in the ocean and these provisions are typically complemented other international and regional instruments as **Annex 4**.



The overview of the United Nations Fish Stocks Agreement was presented by Mr. Michele Ameri from the Division for Ocean Affairs and the Law of the Sea (DOALOS), United Nations. His presentation explained the background, objectives, provisions, and effectiveness of the UN Fish Stocks Agreement. The UN Fish Stocks Agreement is a detailed legal regime for straddling fish stocks and highly migratory fish stocks. This agreement provides a framework for cooperation in the conservation and management of fishery resources within and beyond areas of national jurisdiction including a precautionary approach, compatibility between measures within and beyond national jurisdiction, role of regional fisheries management organization and arrangements, strengthened compliance and enforcement regime, and recognition of special requirements of developing States as **Annex 5**.

The agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement) was presented by Ms. Charlotte Salpin, the Division for Ocean Affairs and the Law of the Sea (DOALOS), United Nations. The BBNJ Agreement is the third implementing agreement to UNCLOS which is consistent with UNCLOS, not prejudice the rights, jurisdiction and duties of States under the Convention, and legal status of non-parties to UNCLOS not affected by the Agreement. The overviews, implementation and compliance, institutional arrangements, funding, and dispute settlement of the BBNJ Agreement were presented in this training as **Annex 6**.

The international agreement to combat IUU fishing was presented by Ms. Angela Lentisco, Fishery and Aquaculture Officer, FAO Regional Office for Asia and the Pacific. Her presentation informed the timeline, overview, and objectives of international fisheries instruments and tools to combat IUU fishing including UNCLOS, the Cancun Declaration, the FAO Compliance Agreement, Straddling and Highly Migratory Fish Stocks Agreement, the Code of Conduct of Responsible Fisheries (CCRF), International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), The Rome Declaration on IUU Fishing, Port State Measures Agreement, SDGs and SDG14, Global Record, Voluntary Guidelines on the Marking and Fishing Gear, and Voluntary Guidelines for Transshipment as **Annex 7**.

The enforcement of international and domestic fisheries laws - Case Studies was presented by Mr. Ganeson Vethiah, a Vetted MCS Expert/ Fisheries Law and Enforcement Expert, from Malaysia. The objectives of his presentation are to understand Public International Law in relation to fisheries law, understand the application of Public International Law through Domestic Laws, and provide the importance of local and global judicial decisions in enforcing fisheries law. The meaning of Public International Law (PIL) and Private International Law (CL), the distinction between International Law and National Legal System, the introduction of International Law into Domestic Law, State Jurisdiction, the maritime zone, and the enforcement of laws and regulations of Coastal State were explained to participants. Moreover, he explained the case studies, enforcement of international and Domestic Fisheries Laws, and other emerging enforcement measures to combat IUU fishing to participants for more understanding as **Annex 8**.

The special adviser to the Minister of Agriculture, Forestry and Fisheries of Japan for International Affairs, Mr. Ichiro Nomura, presented the Biodiversity Beyond National Jurisdiction (BBNJ) Agreement and its implications in fisheries management. The details of the BBNJ agreement especially part III: Measures such as Area-Based Management Tools (ABMT), including Marine Protected Areas which is related to fisheries activities were explained in deep detail in this training. BBNJ Agreement is open for signature from 20 September 2023 to 20 September 2025. As of 5 October 2023, 82 nations signed it including all EU Member States (27), UK, US, China, Australia, Brazil, and Mexico. Moreover, the mechanism to establish ABMT, implications in fisheries governance, and prospects for BBNJ were also presented to participants. As **Annex 9**.

The implementation of FAO and fishery bodies in UNCLOS and other agreements was presented by Ms. Minmin Lei, Fisheries Officer, FAO. Her presentation explained the basis for establishing

international fisheries instruments for the conservation and management of common or shared fish stocks in particular in areas beyond national jurisdiction (ABNJ), examine international legal frameworks that support combating illegal, unreported and unregulated (IUU) fishing, with a focus on the FAO Agreement on Port State Measures (PSMA) and the FAO Compliance Agreement, overview of Regional Fishery Bodies (RFBs) including Regional Fisheries Management Organizations (RFMOs) including mechanisms for cooperation, establishment and function, implementation of the international fisheries instruments, and the outlook, establish chain of custody to combat IUU fishing and how FAO global information systems support as verification system and tools such as vessel records, fishing license database, logbook reporting, observer reports, *etc.*, and FAO implementation of international instruments of relevance to fisheries, such as Convention in International Trade in Endangered Species of Wild Fauna and Flora (CITES) in the fisheries sector, with a focus on legal perspectives as **Annex 10**.



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## COURSE CURRICULUM

### INTRODUCTION

The ocean covers approximately 70.8% of the surface of the earth and serves as a vital resource for various activities such as transportation, industry, and fisheries. To ensure the sustainable use of marine resources and the peaceful operation of marine activities, it is essential to establish rules and regulations in line with international law. The United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) provides the framework for these regulations, encompassing a wide range of matters, including State rights and obligations in maritime zones, marine resource utilization, marine environment protection, marine scientific research, and more.

Over the past decade, Illegal, Unreported, and Unregulated (IUU) fishing has emerged as a significant global concern. IUU fishing encompasses a broad spectrum of fishing activities, occurring both within national jurisdictions and on the high seas. It poses a threat to sustainable fisheries management, fishery resources, and marine biodiversity. To combat IUU fishing effectively, the European Union has initiated IUU Regulations based on UNCLOS 1982, urging all countries, including those in ASEAN, to address this issue seriously.

To enhance the capacity and knowledge of fisheries officers from ASEAN Member States (AMSs) in relation to UNCLOS 1982 and its implications for fisheries, as well as to share information on the National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU) and international agreements related to IUU fishing, SEAFDEC/TD is organizing the Regional Training Course on the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in Fisheries Perspective in Bangkok, Thailand.

### OBJECTIVES

1. **Capacity Building:** Enhance the knowledge of fisheries officers of AMSs on the following topics
  - 1.1. The United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982)
  - 1.2. UNCLOS 1982 in the context of fisheries
  - 1.3. International and regional initiatives to prevent, deter, and eliminate Illegal, Unreported, and Unregulated (IUU) Fishing
  - 1.4. National fisheries law and regulation of AMSs
2. **Information Sharing:** Facilitate the exchange of information on the National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU) in AMSs
3. **Understanding International Agreements:** Enhance knowledge of participants on international agreements aimed at preventing, deterring, and eliminating Illegal, Unreported, and Unregulated (IUU) Fishing

### EXPECTED OUTPUTS

By the end of the course, participants will be able to:

1. **Comprehend UNCLOS 1982:** Understand the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) and its implications for combating IUU
2. **Updated NPOA-IUU information:** Be updated on the National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU) in AMSs
3. **International Agreement Knowledge:** Gain knowledge about international agreements that aim to prevent, deter and eliminate Illegal, Unreported, and Unregulated (IUU) Fishing



## PARTICIPANTS

1. Three (3) fisheries officers from each AMS
2. Relevant staff of the SEAFDEC/TD

## DATE AND VENUE

The regional workshop will be held on 6–9 November 2023 (4 days) in Bangkok, Thailand.

## TIMETABLE (TENTATIVE)

*Remark: The timetable of the subject might be changed depending on the suitable and available of resource person.*

<b>6 November 2023, 0900-1600 hrs.</b>	
<b>Opening Ceremony</b>	Dr. Suttinee Limthammahisorn Secretary-General and Chief of the Training Department
<b>Countries Report and Presentation (6 hours)</b>	
<ul style="list-style-type: none"> <li>• National Fisheries Law and Regulation Relevant to Combat IUU Fishing</li> <li>• National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU)</li> </ul>	AMSs Participants
<b>Reception Dinner</b>	
<b>7 November 2023, 0900-1200 hrs.</b>	
<b>UNCLOS and UN Fish Stock (3 hours)</b>	
<ul style="list-style-type: none"> <li>• Overview of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS)</li> <li>• UN Fish Stocks Agreement</li> </ul>	Mr. Michele Ameri, and Ms. Rachel Lucas, DOALOS, United Nations ( <i>Online platform</i> )
<b>7 November 2023, 1300-1600 hrs.</b>	
<b>Enforcement of International and Domestic Fisheries Laws- Case Studies (3 hours)</b>	
<ul style="list-style-type: none"> <li>• International and domestic typologies/ case studies.</li> </ul>	Mr.Ganesan Vethiah, Development Law Specialist
<b>8 November 2023, 0900-1200 hrs.</b>	
<b>Biodiversity Beyond National Jurisdiction (BBNJ) Agreement (High Seas Treaty) (3 hours)</b>	
<ul style="list-style-type: none"> <li>• Overview and introduction of BBNJ</li> <li>• Importance of BBNJ</li> </ul>	Ms.Charlotte Salpin DOALOS, United Nations ( <i>Online Platform</i> )



<b>8 November 2023, 1300-1600 hrs.</b>	
<b>International Instruments of the Implementation of the Provision of the UNCLOS Relating to Fisheries Perspective through Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated (IUU) Fishing (3 hours)</b>	
<ul style="list-style-type: none"> <li>• The Declaration of Cancun 1992</li> <li>• United Nations Conference on Environment and Development: UNCED 1992 or Agenda 21</li> <li>• Agreement to Promote Compliance with International Conservation and Management Measure by Fishing Vessel on the High Seas, 1993 or 1993 Compliance Agreement</li> <li>• Agreement of the Implementation of the Provision 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 High by Migratory Fish Stocks</li> <li>• The Code of Conduct for Responsible Fisheries (CCRF)</li> <li>• International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)</li> <li>• FAO Port State Measure Agreement (PSMA)</li> <li>• Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels</li> <li>• Global Information Exchange System (GIES)</li> <li>• Voluntary Guideline on Transshipment</li> </ul>	Ms. Angela Lentisco, FAO/RAP
<b>9 November 2023, 0900-1200 hrs.</b>	
<b>Biodiversity Beyond National Jurisdiction (BBNJ) Agreement (continue) (3 hours)</b>	
<ul style="list-style-type: none"> <li>• BBNJ focuses on fishery management and combat IUU fishing.</li> <li>• Benefit and Impact of BBNJ in Japan</li> </ul>	Mr. Ichiro Nomura, Special Advisor to the Minister of Agriculture, Forestry and Fisheries for International Affairs (Fisheries) of the Japanese Government
<b>9 November 2023, 1300-1600 hrs.</b>	
<b>Implementation of FAO and fishery bodies in UNCLOS and others agreement (3 hours)</b>	
<ul style="list-style-type: none"> <li>• FAO and the Implementation of: <ul style="list-style-type: none"> <li>○ UNCLOS and related fisheries instruments including the UNFSA and FAO legally binding Agreements</li> <li>○ international fisheries instruments at the regional level including through Regional fishery bodies and regional fisheries management organizations</li> <li>○ other multilateral environmental agreements (MEA) of relevance to fisheries including the Convention in International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity and (CBD)</li> <li>○ New or emerging agreements (e.g. BBNJ)</li> </ul> </li> </ul>	Ms. Minmin Lei, Fisheries Officer, FAO/Rome



<ul style="list-style-type: none"><li>• FAO perspectives on RPOA-IUU and NPOA-IUU in Southeast Asia</li><li>• Others</li></ul>	
<b>Closing Ceremony</b>	Dr. Tomoko Nakazato Deputy Secretary-General and Deputy Chief of the Training Department

**Summary of the National Fisheries Law and Regulation relevant to Combat IUU Fishing,  
 National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (NPOA-IUU),  
 and International Instrument relating to Fisheries Perspective through Prevent, Deter, and Eliminate IUU Fishing in Southeast Asian**

Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
Cambodia	<ul style="list-style-type: none"> <li>- The Fisheries Law has been drafted and consulted with relevant Ministries and is expected to be promulgated by the end of 2023.</li> <li>- Fisheries Administration (FiA) has discussed with the Ministry of Public Work and Transport (MPWT) on marine fishing vessel registration and licensing, access to the marine fishing vessels database, and updated statistics of its registration of all medium and large-scale marine fishing vessels.</li> <li>- The Marine Fisheries Policy was adopted in October 2019.</li> <li>- The Ministry of Agriculture Forestry and Fisheries' Proclamation on marine fishing gear has been drafted and is expected to be approved by the end of this year. The inventory of fish landing sites was also conducted.</li> </ul>	<ul style="list-style-type: none"> <li>- The National Plan of Control and Inspection for Marine Fisheries, 2020-2024 (NPCI-MF) plans to license all medium and large-scale marine fishing vessels within 3 years. There are 1742 marine fishing vessels registered.</li> <li>- FiA established a VMS management team in July 2023 and 125 fishing vessels longer than 18 meters were installed.</li> <li>- The VMS monitoring center is in Preah Sihanoukville city.</li> <li>- The patrol and inspection of marine activities are recorded and reported in the Monitoring and Reporting Tool (SMART) application which has been installed on mobile phones since 2020.</li> </ul>	<ul style="list-style-type: none"> <li>- Became a Party to the PSMA on 6 December 2019.</li> <li>- FiA established a technical team for implementing PSMA.</li> <li>- Standard Operating Procedure for PSMA Implementation was drafted and discussed.</li> <li>- Became a Party to the UNFSA on 28 February 2020.</li> </ul>





Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
Indonesia	<ul style="list-style-type: none"> <li>- Law No. 31/2004 on Fisheries and its amendments especially on Art 8.: Every person is prohibited from fishing and/or aquaculture by using chemical substance, biological substance, explosives material, tools and/or manner and/or construction which may ruin and/or jeopardize the fish resources sustainability and/or its environment in the fisheries management area of the Republic of Indonesia.</li> <li>- Law No. 27/2007 on Management of Coastal Zone and Small Islands and its amendments</li> <li>- Gov't Regulation No. 60/2007 on Conservation of Fish Resources</li> <li>- Gov't Regulation No. 30/2008 on Implementation of Fisheries Research and Development</li> <li>- Gov't Regulation No. 27/2021 on Implementation of Marine and Fisheries Sector</li> <li>- Regulation of President of RI No. 43/2016 on Ratification of PSMA</li> </ul>	<ul style="list-style-type: none"> <li>- Implementing MCS consistently (VMS, Observer onboard, Logbook, Port Inspection)</li> <li>- Conducting fishing vessels inspection (Before, While and After Fishing Operations)</li> <li>- Developing surveillance infrastructures and integrated system</li> <li>- Exchange of data and information</li> <li>- Developing community/participatory base surveillance (POKMASWAS)</li> <li>- Organizing coordinated patrol</li> <li>- Reviewing and completing laws and regulations</li> <li>- Institutional strengthening of technical implementing unit</li> <li>- Capacity building for fisheries inspectors</li> <li>- Involving in the RFMOs as well as fisheries regional and bilateral cooperation</li> <li>- Promoting responsibility practice in fisheries including combating IUU Fishing</li> </ul>	<ul style="list-style-type: none"> <li>- Ratification of United Nations Convention on the Law of the Sea 1982 (UNCLOS), UN Fish Stocks Agreement (UNFSA), FAO Compliance Agreement, and Port State Measure Agreement.</li> </ul>



Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<ul style="list-style-type: none"> <li>- Regulation of MMAF No. 13/2005 on the Coordination Forum for Handling Criminal Offences in the Fisheries Sector and its amendments</li> <li>- Regulation of MMAF No. 39/2019 on Implementation of Port State Provisions to Prevent, Deter and Combat IUU Fishing</li> <li>- Regulation of MMAF No. 10/2021 on Standards for Business Activities and Products in the Implementation of Risk-based Business Licensing in the Marine and Fisheries Sector</li> <li>- Regulation of MMAF No. 18/2021 on Placement of Fishing Gear and Fishing Aids in the FMA RI and the High Seas and Arrangement of Fishing Andons.</li> <li>- Regulation of MMAF No. 20/2021 on National Commission for Fish Resources Assessment and its amendment</li> <li>- Regulation of MMAF No. 27/2021 on Fishing and/or Fish Farming in the Fisheries</li> </ul>		

Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<p>Management Area of the Republic of Indonesia that are not for Commercial Purposes</p>		
Lao PDR	<ul style="list-style-type: none"> <li>- Lao PDR's Fisheries Law was developed and declared in 2009.</li> <li>- Disseminate Fisheries Law to the district and village level (Fisheries Communication)</li> <li>- Drafting Fisheries Decree by law and regulation                             <ul style="list-style-type: none"> <li>• Establish a fisheries inspection officer.</li> <li>• Roles and responsibilities of the Fisherman Association</li> <li>• Enforcement of fisheries law</li> </ul> </li> <li>-</li> </ul>	<ul style="list-style-type: none"> <li>- National Policy concerning the development of the fisheries sub-sector: The government's highest priority is to obtain food self-sufficiency both in agriculture and fish products to overcome poverty in rural areas and to improve the nutritional level as well as economic status.</li> <li>- Development Strategy Implement Plan (SIP) 2025. There are 3 priority areas:                             <ul style="list-style-type: none"> <li>• Fishery production for food security</li> <li>• Fishery production for commodity and trade</li> <li>• Sustainable fisheries management and development with a focus on Catch Certification adaptation.</li> </ul> </li> </ul>	-
Malaysia	<ul style="list-style-type: none"> <li>- The Fisheries Act 1985 and its Regulations are the legislative framework for the</li> </ul>	<ul style="list-style-type: none"> <li>- Malaysia's NPOA-IUU launched in 2013.</li> </ul>	<ul style="list-style-type: none"> <li>- Malaysia's Commitment to the international Instruments under</li> </ul>



Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<p>conservation, management, and development of the maritime and estuarine fishing and fisheries in Malaysia.</p> <ul style="list-style-type: none"> <li>- Malaysia has a very strong domestic law to combat IUU fishing committed either by local fishing vessels or foreign fishing vessels.</li> </ul>	<ul style="list-style-type: none"> <li>- To strengthen Malaysia's commitment at the international level to combat IUU Fishing.</li> <li>- Several enforcement agencies in Malaysia have teamed up to handle cases of IUU fishing vessels (13 agencies).</li> <li>- Maintain an updated Record of Fishing Vessels-MFVR.</li> <li>- Effective MCS of fishing activities               <ul style="list-style-type: none"> <li>• Vessel Monitoring System (VMS)</li> <li>• Zoning System</li> <li>• Marking of fishing vessel</li> <li>• Surveillance at sea</li> </ul> </li> <li>- Cooperation and exchange of information with other States (ASEAN, SEAFDEC, PROA-IUU, IOTC, IORA, and APCE)</li> </ul>	<p>the responsibility of FAO is as follows;</p> <ul style="list-style-type: none"> <li>• UNCLOS</li> <li>• CA</li> <li>• UNFSA</li> <li>• CCRF</li> <li>• IPOA-IUU</li> <li>• Rome Declaration</li> <li>• PSMA</li> <li>• VG-FSP</li> <li>• Global Record</li> <li>• VG-CDS, and</li> <li>• VG-MFG</li> </ul> <ul style="list-style-type: none"> <li>- Another commitment is as follows;               <ul style="list-style-type: none"> <li>• Kunming-Montreal GBF</li> <li>• IOTC</li> <li>• FSA</li> <li>• Joint ASEAN-SEAFDEC Declaration on Regional Cooperation for Combating Illegal Unreported and Unregulated (IUU) Fishing</li> <li>• ASEAN Roadmap on Combating Illegal,</li> </ul> </li> </ul>



Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
			Unreported and Unregulated Fishing <ul style="list-style-type: none"> <li>• ASEAN Guidelines for Preventing the Entry of Fish and Fishery Products from IUU Fishing Activities into the Supply Chain</li> <li>• AN-IUU</li> <li>• RPOA-IUU</li> <li>• Indian Ocean Rim Association (IORA)</li> </ul>
Myanmar	<ul style="list-style-type: none"> <li>- Fisheries Laws               <ul style="list-style-type: none"> <li>• Law relating to the fishing rights of foreign fishing vessels.</li> <li>• Aquaculture Law</li> <li>• Myanmar Marine Fisheries Law</li> <li>• Freshwater Fisheries Law</li> </ul> </li> <li>- Amending Laws               <ul style="list-style-type: none"> <li>• Law amending the Myanmar Marine Fisheries Law</li> <li>• Law amending the Law relating to the fishing rights of foreign fishing vessels.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Implementation of the National Plan of Action Combating Illegal, Unreported, and Unregulated (IUU) Fishing.</li> <li>- Promoting collaboration with related Local, Regional, and International Organizations for the implementation of the International, and regional provisions, ASEAN declarations and commitments.</li> </ul>	<ul style="list-style-type: none"> <li>- Following regional and internationally recognized measures to prevent and combat IUU fishing including IPOA-IUU, RPOA-IUU, AN-IUU, and PSMA</li> <li>- Following and ratifying international rules and regulations</li> </ul>



Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
Philippines	<ul style="list-style-type: none"> <li>- The Amended Fisheries Code (Republic Act 8550 as amended by Republic Act 10654) is the national law on fisheries management, conservation, development, protection, and utilization.</li> <li>- The Implementing Rules and Regulations of the amended law was issued on 22 September 2015 as Department of Agriculture Administrative Order No. 10, series of 2015.</li> <li>- Fisheries Administrative Orders are the administrative issuances that implement the different provisions of the law.</li> </ul>	<ul style="list-style-type: none"> <li>- In 2013, the Philippine government passed Executive Order 154, a National Plan of Action to prevent, deter and eliminate IUU fishing.</li> <li>- The plan outlines priority actions that will address the ecological, biological, and socio-economic challenges posed by IUU fishing in a coordinated and integrated manner with collaboration between Philippine Government departments and agencies.</li> <li>- All-State (Flag State, Coastal State, and Port State) Responsibilities, delving into international and national policies that aim to address all aspects of IUU fishing effectively.</li> <li>- Trade-related measures adopted by Regional Fisheries Management Organizations (RFMOs) to which the Philippines is a party.</li> </ul>	<ul style="list-style-type: none"> <li>- United Nations Convention on the Law of the Sea</li> <li>- UN Fish Stocks Agreement</li> <li>- FAO Compliance Agreement: 1995 FAO Code of Conduct for Responsible Fisheries</li> <li>- IPOA-IUU</li> <li>- WCPFC Convention</li> <li>- The Agreement on Port State Measures (PSMA)</li> </ul>
Singapore	<ul style="list-style-type: none"> <li>- The Fisheries Act 1966 is an Act for the protection and conservation of fisheries, and to make provision for the</li> </ul>	-	<ul style="list-style-type: none"> <li>- A party to the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in 1994</li> </ul>

Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<p>control of fishing; marketing; distribution of fish; use of fishing ports and harbours, for measures pertaining to the general welfare and improvement of the fishing industry in Singapore.</p> <ul style="list-style-type: none"> <li>- There are four main sections of the Fisheries Act:                             <ul style="list-style-type: none"> <li>• Licensing to conduct fishing.</li> <li>• Prohibits the use of poisons or explosives to stupefy or kill fish</li> <li>• Prohibits the use of trawl-nets in Singapore's territorial waters</li> <li>• Powers of officers to search and detain vessels that breach the Act</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>- A member of the FAO in 2013</li> <li>- Entered into Free Trade Agreements (FTAs) in the last decade, with obligations on enhancing fisheries management practices, including combatting IUU fishing</li> <li>- Has maintained our fish carrier's records on the Global Record</li> <li>- Cooperates with Regional Fisheries Management Organisations (RFMOs)                             <ul style="list-style-type: none"> <li>• Non-Contracting Party (NCP) status with CCAMLR</li> <li>• Issuance of Re-export certificates for Swordfish and Big-Eye Tuna trade with ICCAT</li> <li>• Continue to keep abreast in developments in CCSBT compliance meetings</li> </ul> </li> </ul>
Thailand	<ul style="list-style-type: none"> <li>- Royal Ordinance on Fisheries B.E.2558 and the amendments</li> <li>- Act Organizing the Right to Fish in Thai Waters B.E. 2482</li> <li>- It is a comprehensive legal framework governing the management of fisheries and</li> </ul>	<ul style="list-style-type: none"> <li>- The framework and scope:                             <ul style="list-style-type: none"> <li>• All State Responsibilities should follow the Instrument and National Legislation</li> </ul> </li> </ul>	<p>Binding Voluntary Instruments</p> <ul style="list-style-type: none"> <li>- CITES</li> <li>- UNCLOS</li> <li>- FAO CA Under consideration by the Cabinet</li> <li>- UN FSA</li> <li>- PSMA</li> </ul>



Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<p>fleet, monitoring, control and surveillance to prevent and deter illegal fishing, and appropriate sanctions proportional to the seriousness of wrongdoings</p>	<ul style="list-style-type: none"> <li>• The Responsibilities of the Flag State are fishing vessel registration, authorization to fish and measures to control.</li> <li>• Coastal State Responsibilities are measures to prevent, deter, and eliminate IUU fishing in the Thai EEZ and Monitoring Control and Surveillance in the Thai EEZ.</li> <li>• Port State Measures are notice of access and inspection of fishing at port and foreign vessels in port found to be IUU vessels, etc.</li> <li>• Internationally - Agreed Market-related Measures are Catch Documentation Schemes and trade related measure.</li> </ul>	<ul style="list-style-type: none"> <li>- ILO C188</li> </ul> <p>Non-Binding Voluntary Instruments</p> <ul style="list-style-type: none"> <li>- CCRF</li> <li>- NPOA (2001)</li> <li>- International Guidelines for the Management of Deep-sea Fisheries in the High Seas</li> <li>- VG Flag State Performance</li> <li>- VG Securing Sustainable SSF (Small-Scale Fisheries) in the Context of Food Security and Poverty Eradication</li> <li>- VG Catch Documentation Schemes</li> <li>- VG Marking of Fishing Gear</li> </ul>
Viet Nam	Legal framework to combat IUU	<ul style="list-style-type: none"> <li>- PM Decision No. 78/QĐ-TTg on national plan of action to</li> </ul>	<ul style="list-style-type: none"> <li>- Signing MOUs on bilateral cooperation in fisheries sectors</li> </ul>







Countries	National Fisheries Law and Regulation relevant to Combat IUU Fishing	NPOA-IUU	International Instrument Relating to Fisheries Perspective
	<ul style="list-style-type: none"> <li>- The Law containing two articles 60 and 61 on illegal fishing, details 14 acts that are considered illegal fishing and the certification of fishery origin from exploitation.</li> <li>- Government Decision has a more detailed effect on several articles and measures in the Fisheries Law, including requirements</li> </ul>	<p>prevent, deter, and eliminate illegal, unreported, and unregulated fishing up to 2025. (16 January 2018)</p> <ul style="list-style-type: none"> <li>- The national plan is in line with Viet Nam's fisheries policy, guidelines, and legislation, including comprehensive and integrated actions to prevent, deter, and eliminate IUU fishing effectively, practically associated with sustainable exploitation of fisheries resources; International integration, enhancing the prestige and affirming the position of Viet Nam on the international arena.</li> <li>- February 2023, the Prime Minister signed Decision No. 81/QĐ-TTg issuing an action plan on IUU combat requests relevant departments, ministries, branches and localities to place the highest responsibility at present, focusing on implementing and completing the tasks and solutions.</li> </ul>	<p>and maintaining annual meetings with the Philippines, Brunei, Cambodia, and Thailand.</p> <ul style="list-style-type: none"> <li>- Signing MOU on IUU with Australia; with USA; Hotline with Brunei, IUU Declaration with Indonesia.</li> <li>- Negotiating to sign MOU on combating IUU fishing with Thailand; Hotline with Cambodia, Malaysia, Papua New Guinea and Palau.</li> <li>- Enhancing bilateral dialogue with EC.</li> <li>- Develop ASEAN Roadmap for combating IUU fishing in the period 2021 -2025</li> <li>- Participating in AN-IUU and assigning focal points for AN-IUU</li> <li>- Strengthening regional cooperation on the implementation of Port State Measures</li> <li>- Implementing ASEAN guidelines on preventing the entry of fish and fishery products from IUU fishing activities</li> </ul>



<b>Countries</b>	<b>National Fisheries Law and Regulation relevant to Combat IUU Fishing</b>	<b>NPOA-IUU</b>	<b>International Instrument Relating to Fisheries Perspective</b>
			<ul style="list-style-type: none"><li>- Implementing ASEAN Regional Plan of Action for the Management of Fishing Capacity.</li><li>- Viet Nam focuses on sustainable development of the blue economy, maintaining and developing the fishery industry with the suitable fishing vessels structures and occupations that allow exploitation of marine resources. This process must comply with full provisions on IUU fishing, relevant international conventions and agreements to which Viet Nam is a signatory or a member (UNCLOS 1982, UNFSA, PSMA)</li></ul>



**UN** 

Office of Legal Affairs  
Division for Ocean  
Affairs and the  
Law of the Sea

**Regional Training Course on the United Nations  
Convention on the Law of the Sea 1982 (UNCLOS 1982) in  
Fisheries Perspective**

*Overview of the United Nations Convention on the Law of  
the Sea of 10 December 1982 (UNCLOS)*

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 DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA  
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# IMPORTANT

The designations employed and the presentation of the material in this lecture do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Provision of information concerning developments relating to the law of the sea emanating from actions and decisions taken by States does not imply recognition by the United Nations of the validity of the actions and decisions in question.

Unless expressly stated otherwise, the findings, interpretations and conclusions, if any, expressed in this lecture are those of the United Nations staff member who prepared it and/or deliver it and do not necessarily represent the views of the United Nations or its Member States.

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## Programme

- **Module 1:** Introduction to the law of the sea
- **Module 2:** Maritime zones under UNCLOS
- **Module 3:** Activities under UNCLOS, including fisheries



1

# Introduction to the law of the sea





## Overview of the global framework

- ▶ **UNCLOS**
- ▶ **Implementing Agreements** (Part XI Agreement, UNFSA, BBNJ)
- ▶ **Other instruments and processes**



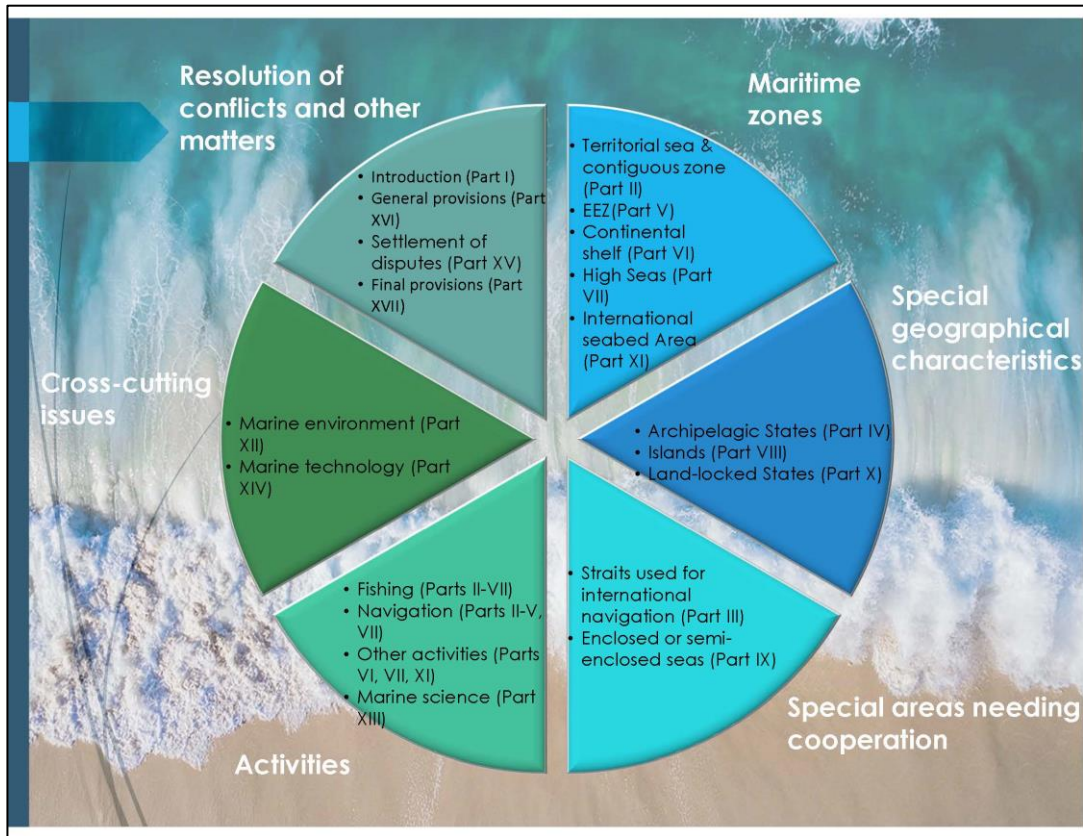
## UNCLOS

- ▶ Full title: **United Nations Convention on the Law of the Sea**
- ▶ Concluded **10 December 1982**; in force **16 November 1994**
- ▶ **320 articles + 9 Annexes**
- ▶ Provides the **legal framework for all activities in the ocean and seas**
- ▶ Implementing agreements
  - ▶ Part XI Agreement (1994)
  - ▶ United Nations Fish Stocks Agreement (1995)
  - ▶ BBNJ (2023)



## UNCLOS: A “Constitution for the oceans”

- **Comprehensive:** “all issues relating to the law of the sea” (Preamble)
- **Integrated:** “closely interrelated ... and considered as a whole” (Preamble)
- **Package deal:** balance of interests, no reservations (art. 309)
- **Enforceable:** compulsory dispute settlement (Part XV)
- **Universal:** 169 Parties (including the EU) and many provisions considered as customary international law
- **Framework:** reference to other instruments and competent international organizations

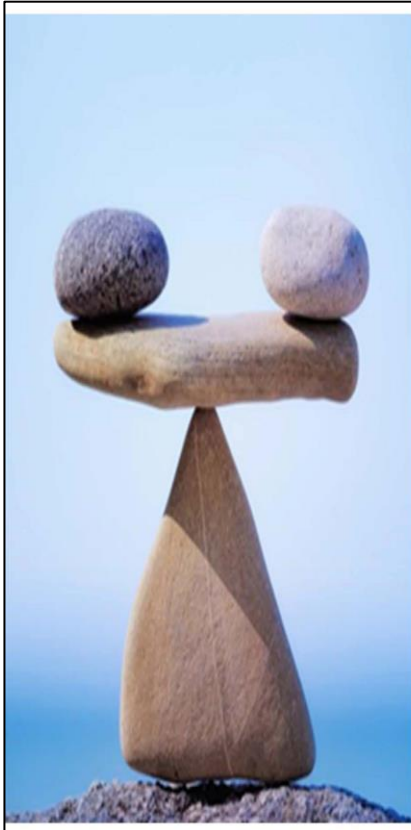


## UNCLOS: A Balance Framework

*“The sea has always been lashed by **two major contrary winds**: the wind from the high seas towards the land is the wind of freedom; the wind from the land toward the high sea is the bearer of sovereignties. The law of the sea has always been in the middle between these conflicting forces.”*

R.J. Dupuy, “The Sea under National Competence”, in Dupuy (ed.), *A Handbook on the Law of the Sea*, 1991, p. 247





## UNCLOS: A Balance Framework

The **Convention ensures a balance** between:

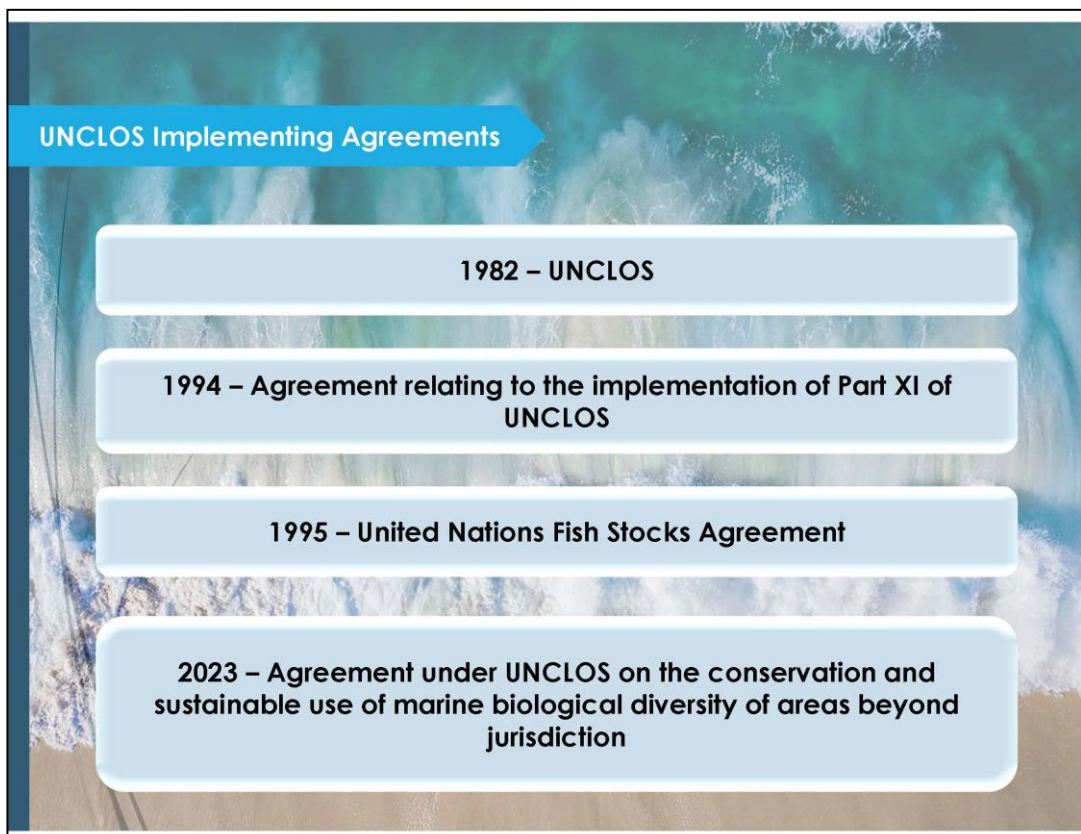
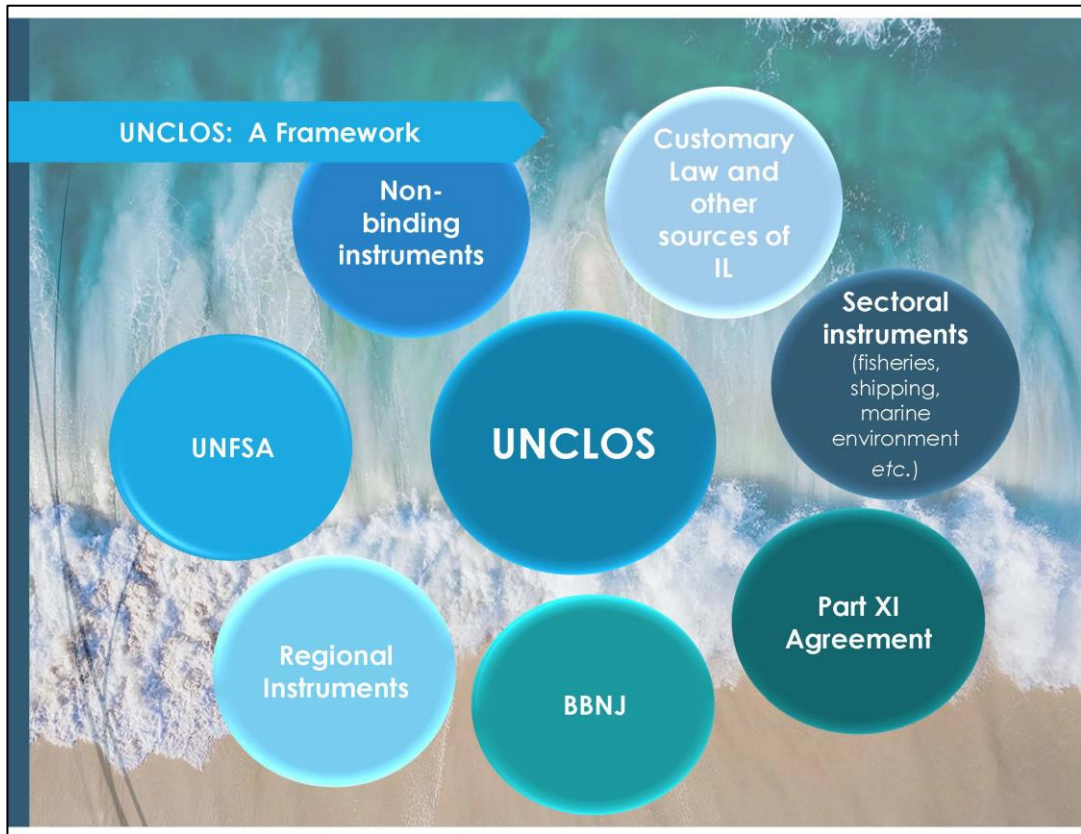
- The **different interests** of States
- The **rights of States to use the ocean and its resources**, and the **need and duty to protect and preserve the marine environment**



## Duty to cooperate

- **International cooperation** - one of the cornerstones of the Convention
- **Duty on States to cooperate at global, regional, subregional levels**, including in the further development in specific areas of the law of the sea
  - "Competent" or "appropriate" "international organizations", "specialized agencies"

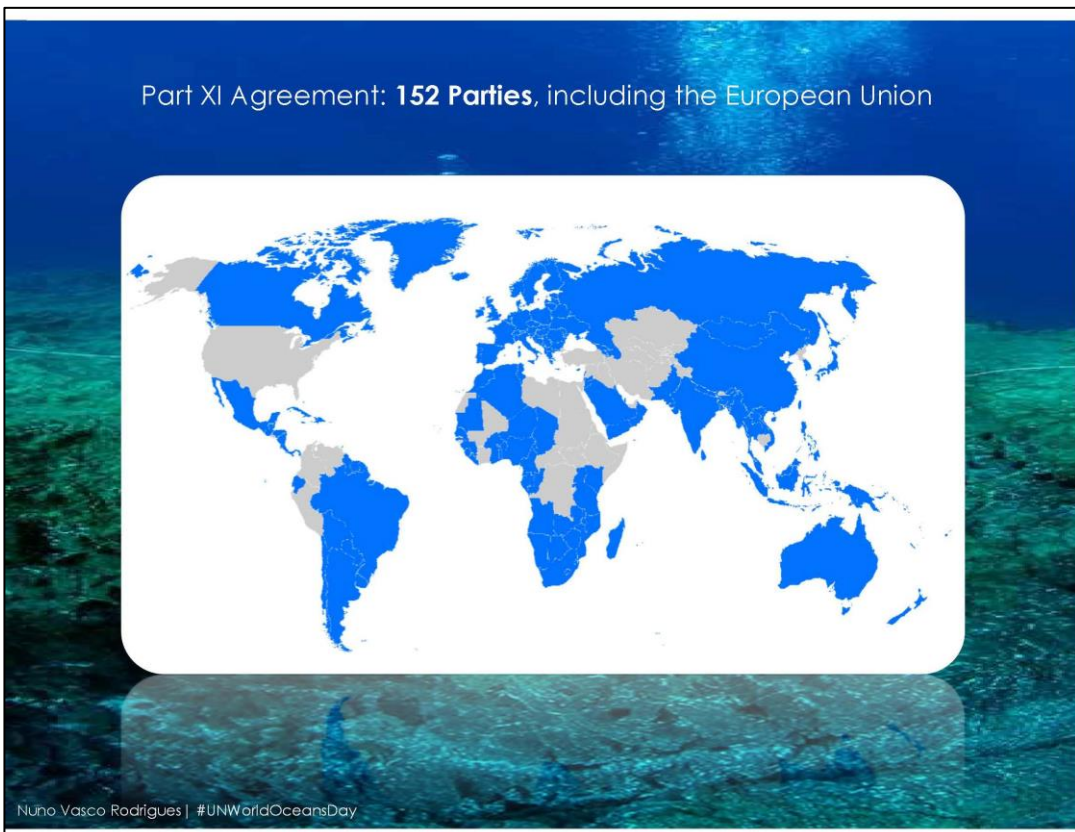






## Part XI Agreement

- Full title: **Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982**
- Concluded **28 August 1994**; in force **28 July 1996**
- 152 Parties** (including the European Union)
- Substantively amends part XI of UNCLOS** to address concerns raised by certain countries
- To be interpreted and applied together as **a single instrument** with UNCLOS
- In the event of any inconsistency between the Agreement and Part XI, the **provisions of the Agreement shall prevail**.

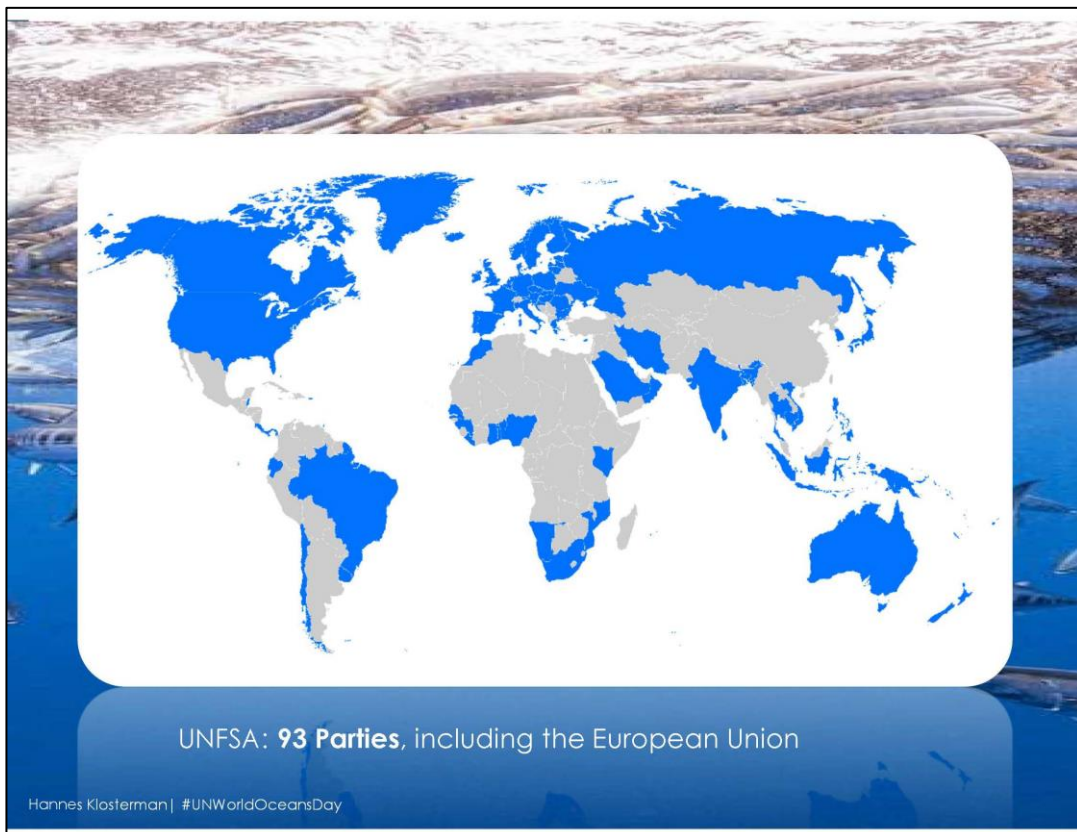






## UNFSA

- Full title: **United Nations 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**
- Concluded 4 August **1995**; in force 11 December **2001**
- Facilitates the implementation of some of the fisheries-related provisions of UNCLOS
- Strengthens and further develops the general rules set out in the **Convention** by providing specific rights and obligations to States.





## BBNJ

- ▶ Full title: **Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.**
- ▶ Adopted by consensus on **19 June 2023**
- ▶ In accordance with its art. 65, the Agreement shall be **open for signature by all States and regional economic integration organizations, on 20 September 2023**, and shall remain open for signature at United Nations Headquarters in New York **until 20 September 2025**.
- ▶ 83 signatories (as of 6 November 2023)

Other instruments and processes

Sectoral Instruments





Non-binding instruments




International Customary Law

(1) **State practice**  
(objective element)

(2) **Opinio juris**  
(subjective element)



## Overview of the Bodies established under UNCLOS

- **International Tribunal for the Law of the Sea (ITLOS)**
- **International Seabed Authority (ISA)**
- **Commission on the Limits of the Continental Shelf (CLCS)**
- **Meeting of States Parties (MSP)**



## Commission on the Limits of the Continental Shelf (CLCS)

- Established under **Annex II of UNCLOS**
- In operation since **1997**
- **21 experts** elected by States Parties to UNCLOS for 5-year terms
- Mandated to **consider submissions and make recommendations on extended continental shelf claims**
- Meets for **21 weeks per year** in New York



## International Tribunal for the Law of the Sea (ITLOS)

- Established under **Annex VI of UNCLOS**
- In operation since **1996**
- Located in **Hamburg, Germany**
- **21 independent members** elected by States Parties to UNCLOS for 9-year terms **MAO**
- Jurisdiction over any dispute concerning interpretation or application of UNCLOS
- **Contentious and Advisory jurisdiction**
- Seabed Disputes Chamber; Special Chambers; Chambers under article 15(2) of the Statute
- 32 cases – 2 pending (as of July 2023)



## International Seabed Authority (ISA)

- Established under UNCLOS and the 1994 Implementing Agreement
- In operation since **1994**
- Located in **Kingston, Jamaica**
- Mandated to **promote the orderly, safe and responsible management and development of the resources of the deep seabed area for the benefit of (hu)mankind as a whole**



## International Seabed Authority (ISA)

### ■ Main functions:

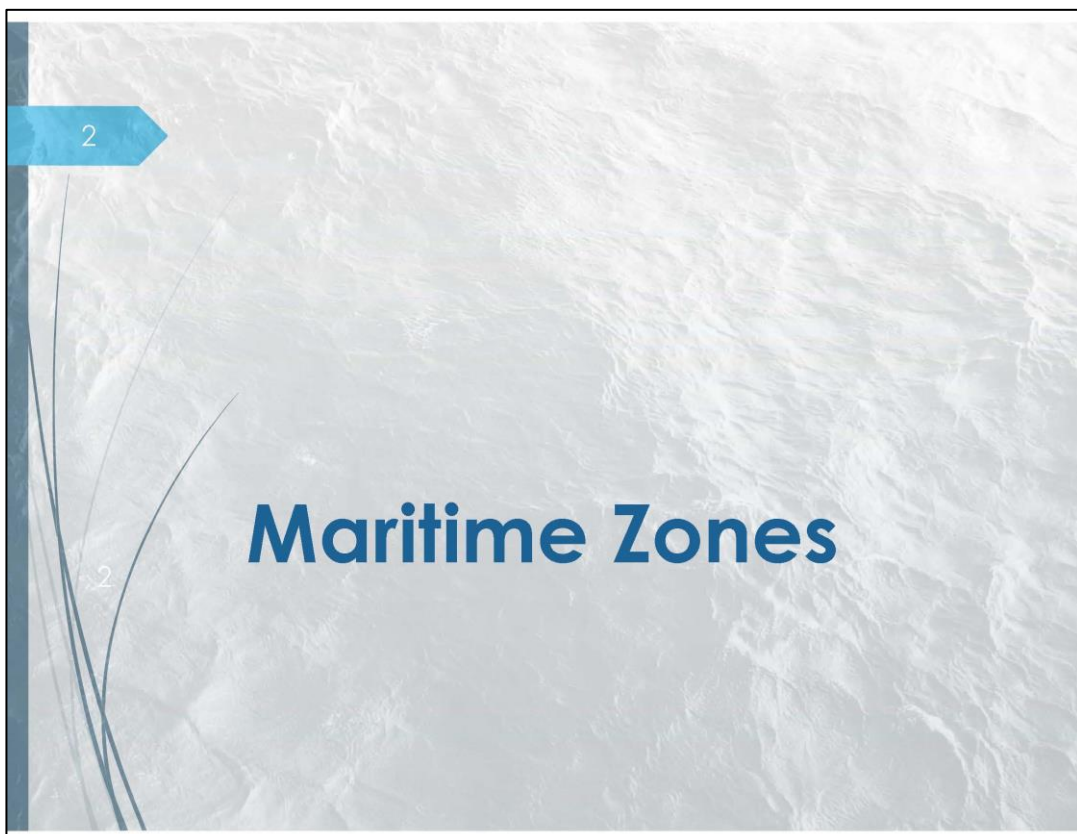
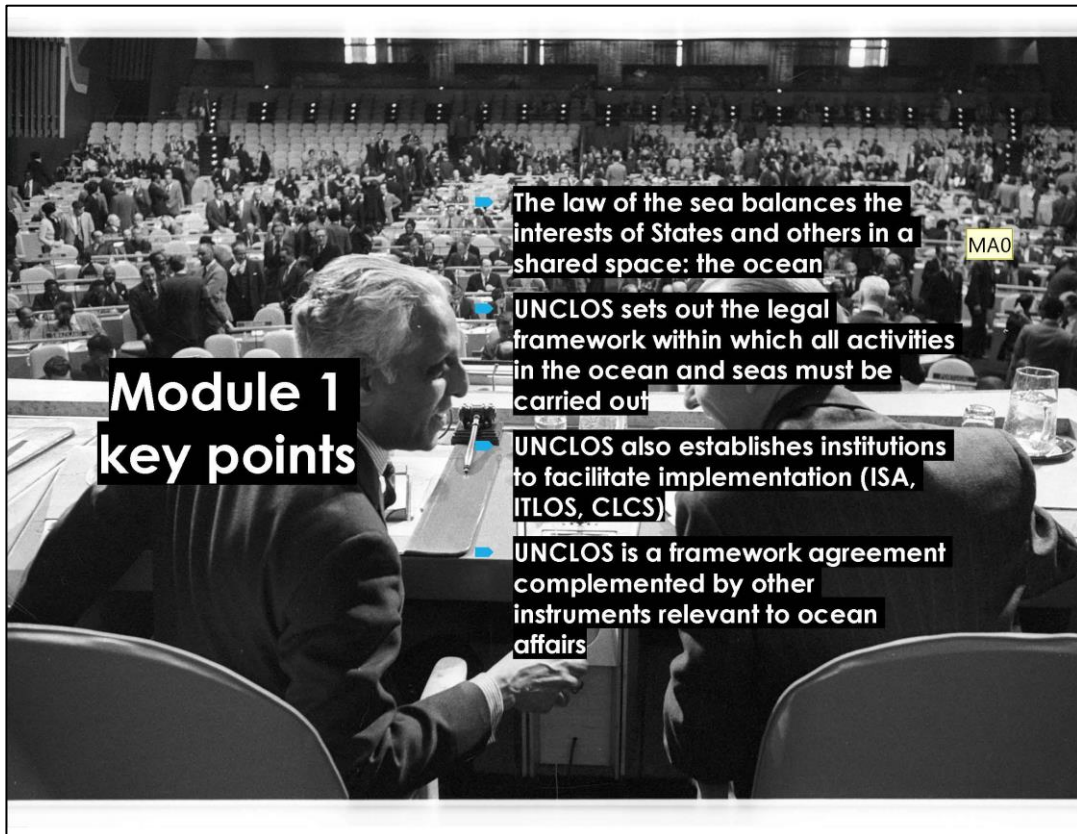
- Developing a "Mining Code" to regulate prospecting, exploration and exploitation of the Area
- Protect the environment and conserve the natural resources
- Promote and encourage marine scientific research
- Capacity Building
- Distribution of payments and contributions received under UNCLOS art. 82.



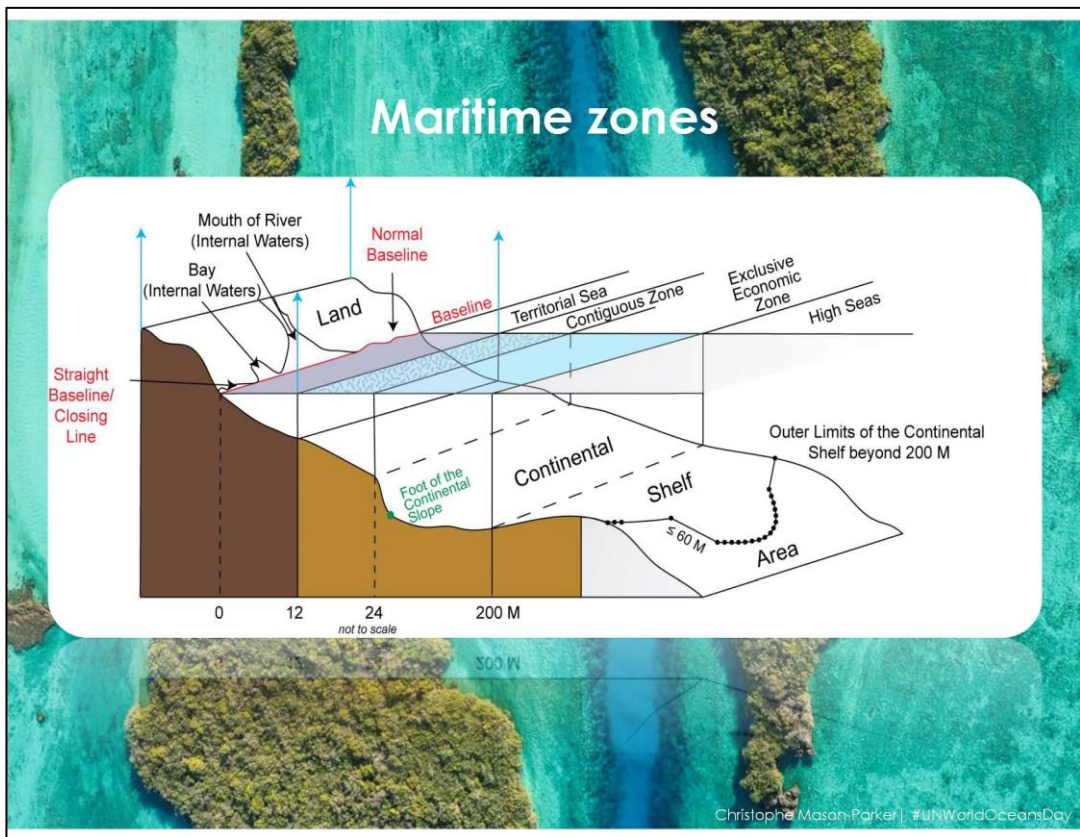
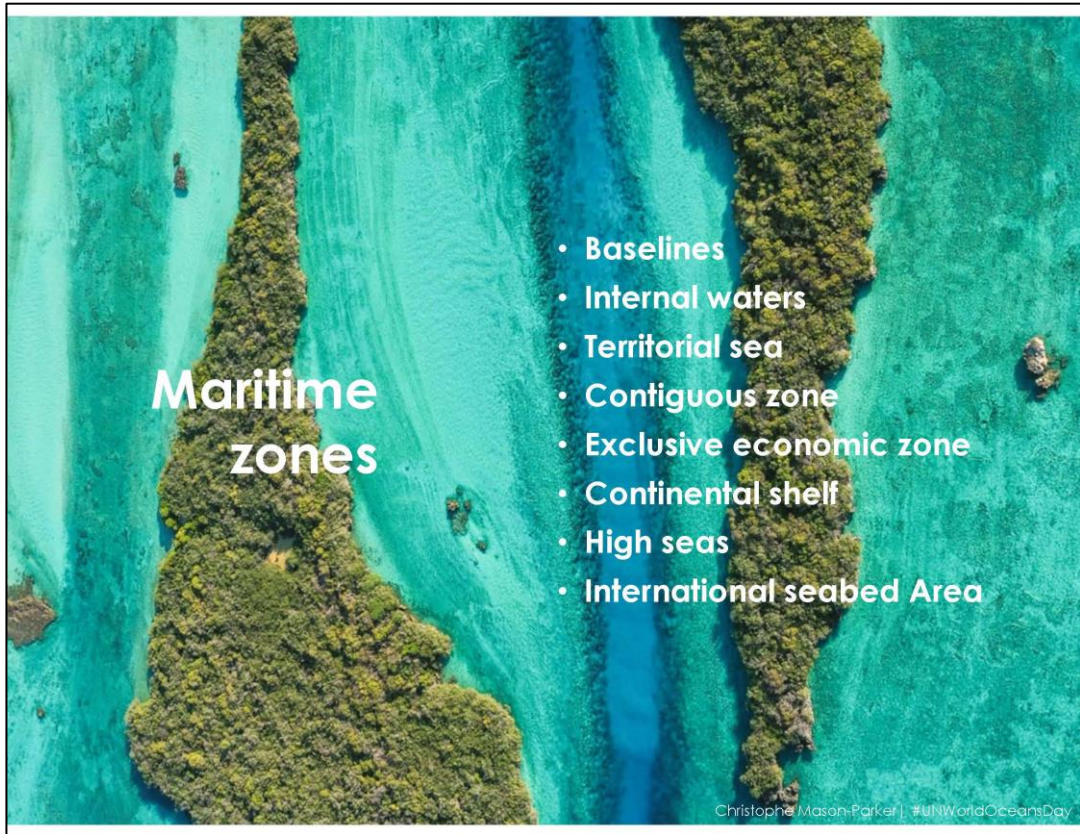
## Meeting of States Parties to UNCLOS (MSP or SPLOS)

- Convened pursuant to art. 319(2) of UNCLOS
- Meets annually in New York, usually in June
- Considers information reported by the bodies established under UNCLOS (ITLOS, ISA, CLCS)
- Deals with budgetary and administrative matters of ITLOS
- Elects members of ITLOS and the CLCS
- Considers the report of the Secretary-General under article 319 of UNCLOS



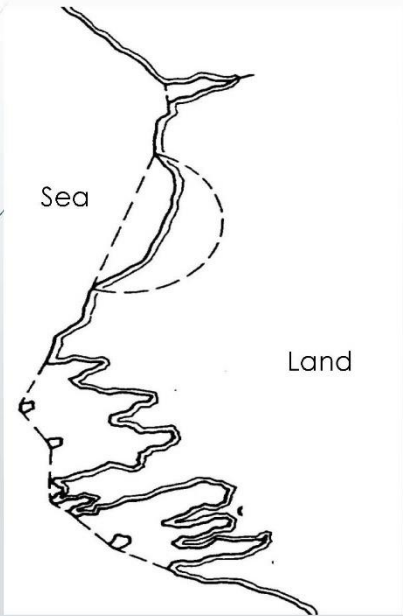






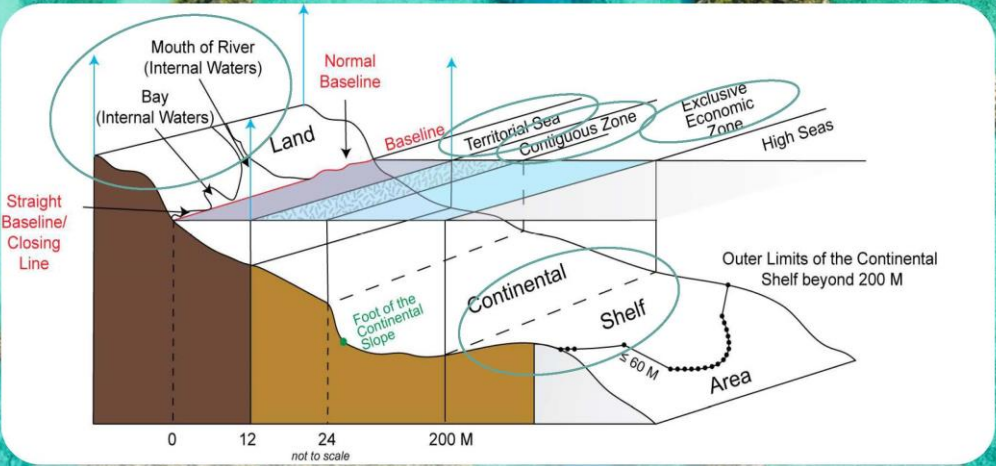


## Baselines



- The **line from which the breadth of maritime zones is measured**
- **Normal baseline:** low-water line along the coast as marked on large-scale charts (art. 5)
- **Other baselines:**
  - straight baseline (art. 7);
  - closing baselines (rivers/bays) (art. 9-10);
  - baselines around ports (art. 11);
  - reefs (art. 6) and low-tide elevations (art. 13);
  - archipelagic baselines (art. 47)
- **Combination of methods**

## Maritime zones within national jurisdiction



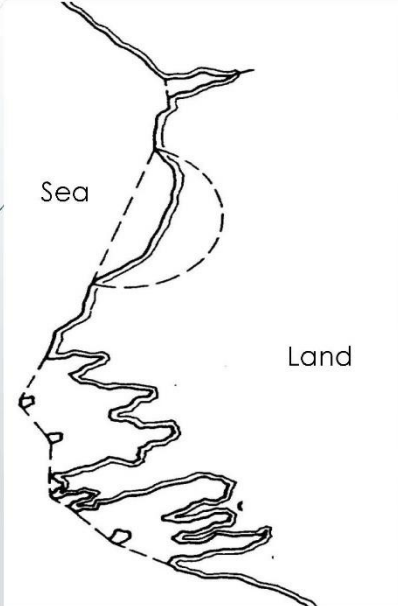
not to scale

0 12 24 200 M

0 12 24 200 M

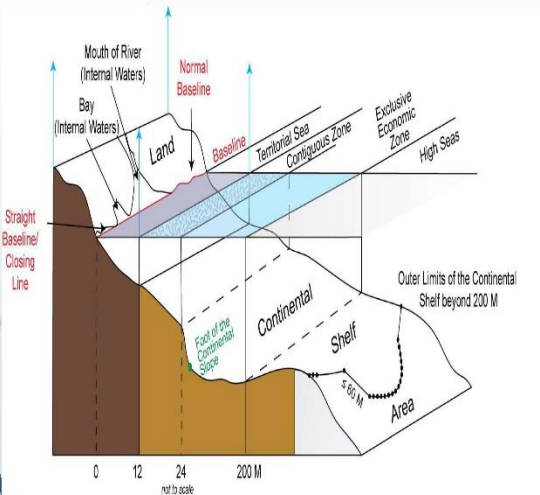
Christophe Mason-Parker | #UNWorldOceansDay

## Internal Waters

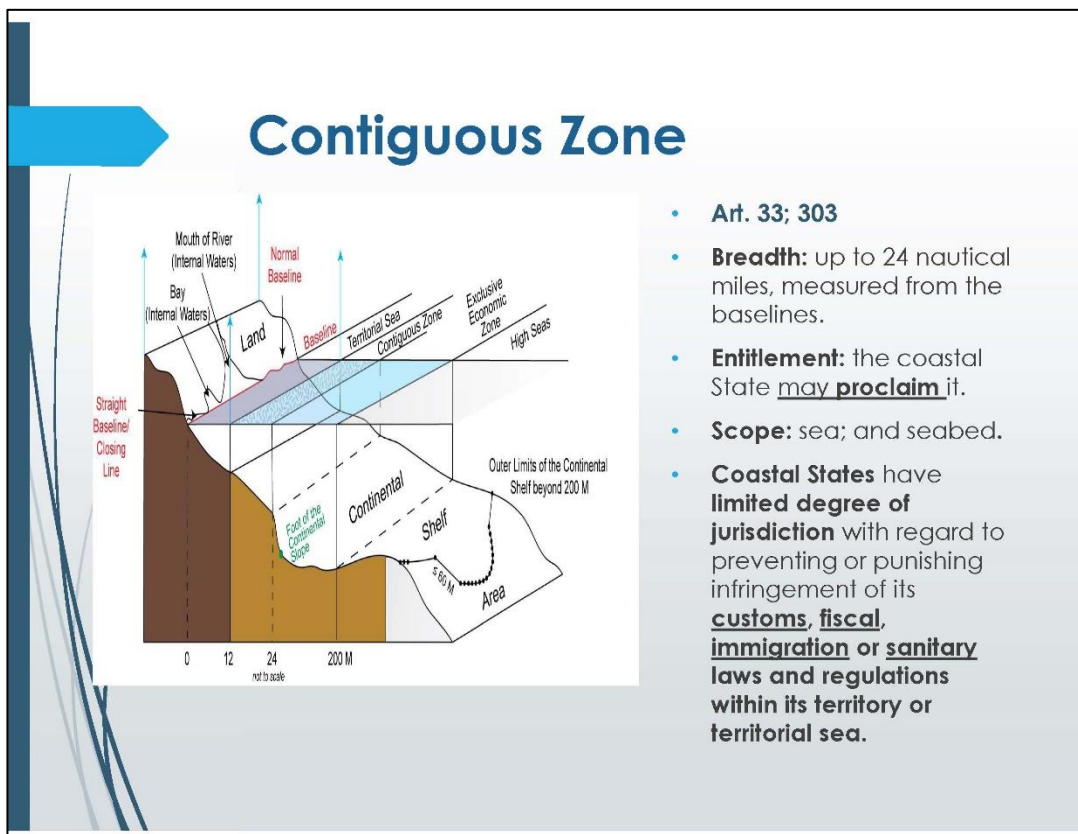
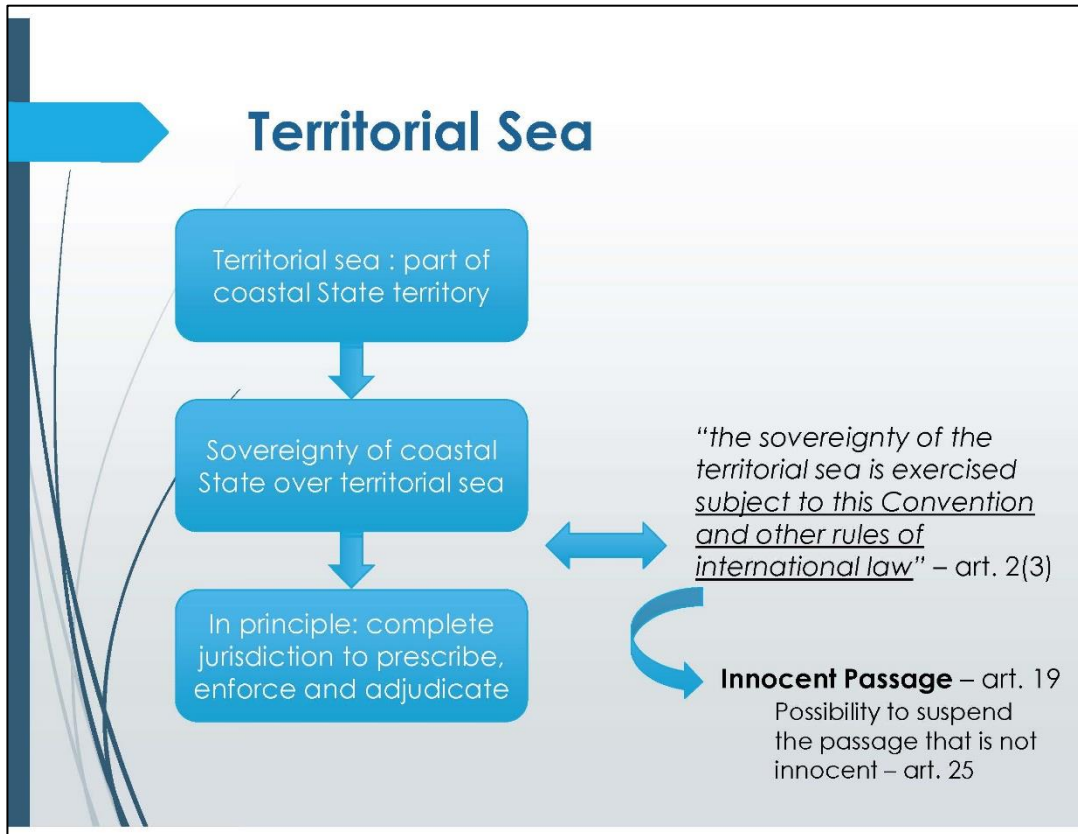


- **Art. 8**
- **Waters on landward side of baseline**
- **Coastal State = full sovereignty**
- No other generally enjoyed rights by other States.
  - **Access to port is granted by ad hoc treaties**

## Territorial Sea



- **Art. 2 - 32**
- **Breadth:** up to 12 nautical miles, measured from the baselines.
- **Entitlement:** inherent part of its territory.
- **Scope:** sea; air space; seabed; and subsoil.
- **Note:** Other States have the right of innocent passage.



## Exclusive Economic Zone (EEZ)

The diagram illustrates the maritime zones of a coastal state. From land to sea, it shows:
 

- Land**: The coastal state's territory.
- Internal Waters**: Waters landward of the baseline.
- Mouth of River**: A specific point on the baseline.
- Bay**: A semi-enclosed area of water.
- Normal Baseline**: The line from which the territorial sea is measured.
- 12 Nautical Miles**: The width of the territorial sea.
- 24 Nautical Miles**: The width of the contiguous zone.
- 200 Meters**: The distance from the baseline to the outer limit of the continental shelf.
- Continental Shelf**: The submerged prolongation of the landmass.
- Shelf Area**: The seabed and subsoil of the continental shelf.
- Outer Limits of the Continental Shelf beyond 200 M**: The boundary of the continental shelf.
- Exclusive Economic Zone**: The area extending to 200 nautical miles from the baseline.
- High Seas**: The area beyond the EEZ.

- **Art. 55-75**
- **Breadth:** from the outer limit of the territorial sea to **up to 200M**, measured from the baselines.
- **Entitlement:** the coastal State may proclaim it.
- **Scope:** sea, seabed and subsoil.
- The EEZ is an area beyond and adjacent to the territorial sea within which the **coastal State has sovereign rights and jurisdiction** to explore and exploit the natural resources and related activities ⇔ **other States have certain freedoms**

## Exclusive Economic Zone (EEZ)

The coastal State has sovereign rights  
Art. 56(1)(a)

**Living Resources**

**Non living resources**

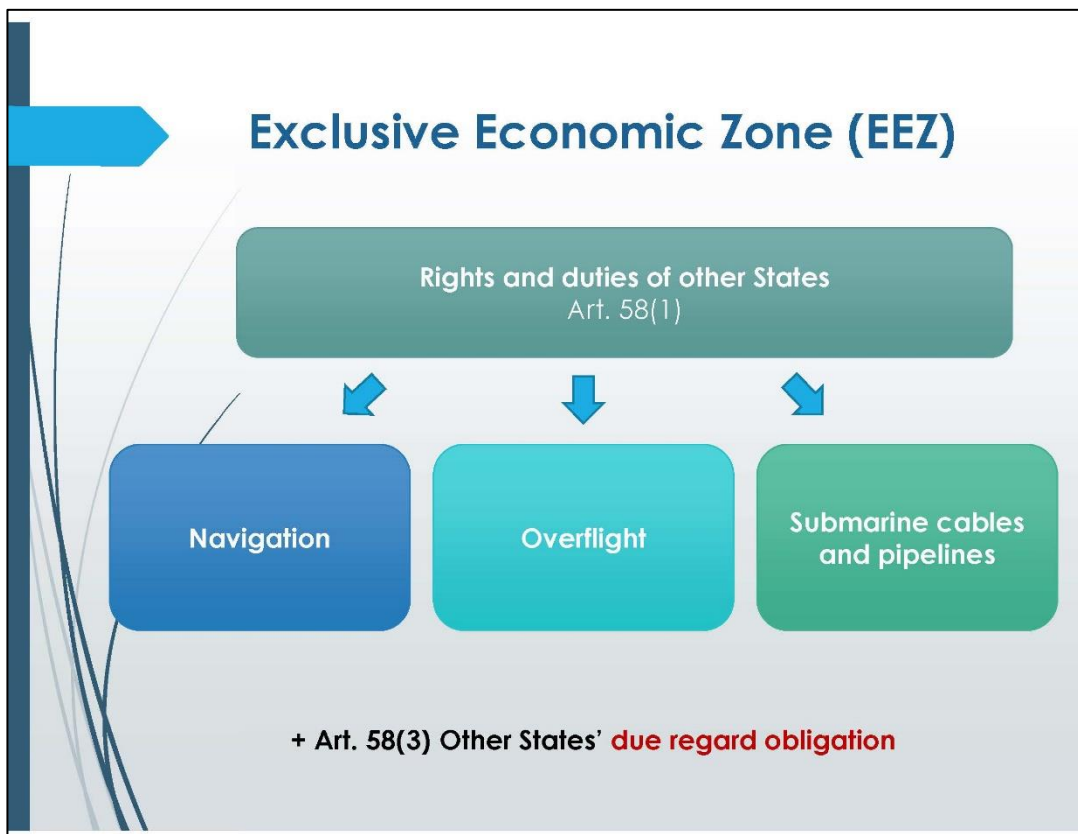
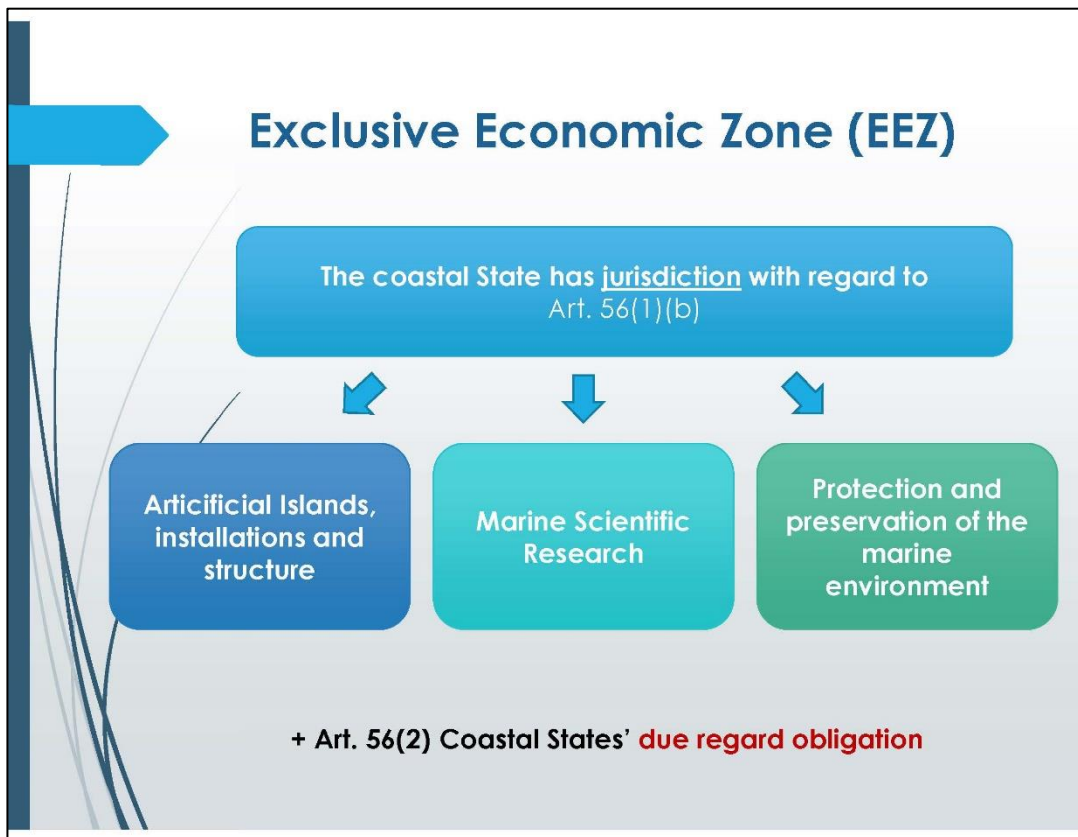
**Other economic activities**  
(such as the production of energy from the water)

For the purpose of exploring and exploiting, conserving and managing

With regard to

**+ Art. 56(2) Coastal States' due regard obligation**





## Continental Shelf

- **Art. 76-85 + Annex II**
- The coastal State has **exclusive sovereign rights** for the purpose of **exploring the continental shelf** and **exploiting its natural resources**.
- Comprises the **seabed and subsoil** of the submarine areas that extend beyond its territorial sea +2 scenarios.

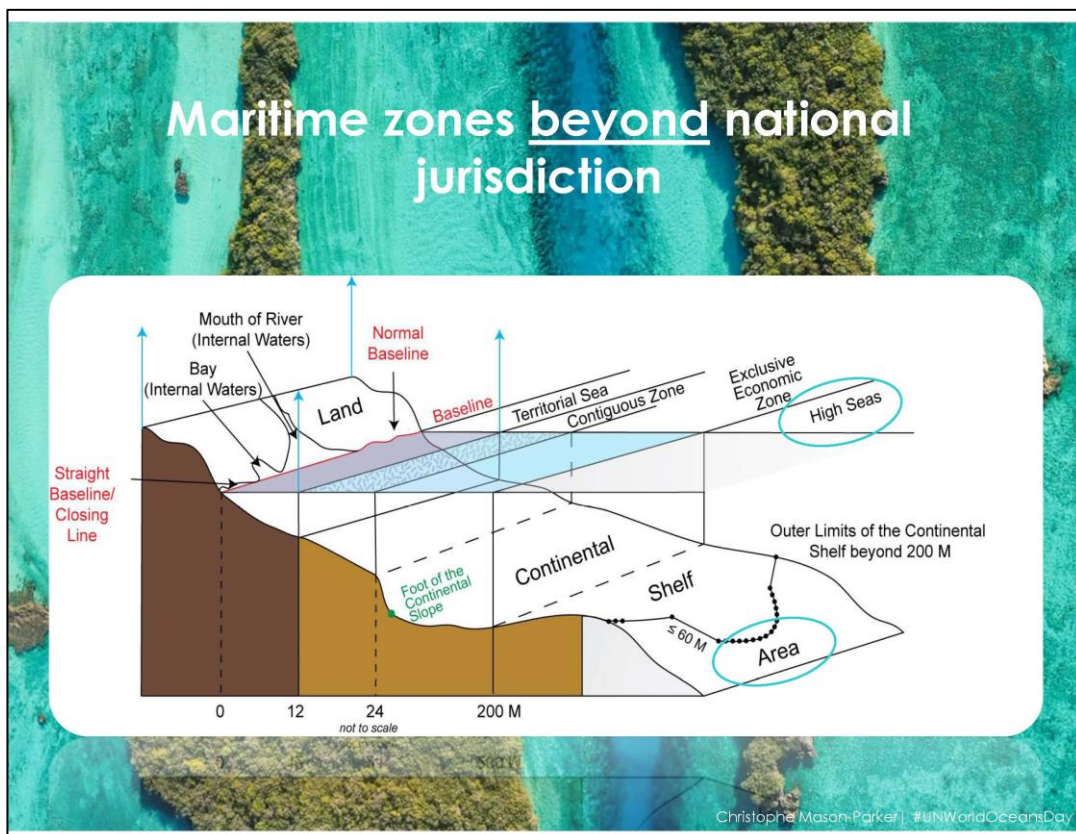
## Continental Shelf

Art. 76(1) "The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance."

**2 scenarios**

<p><b>200 M</b></p> <p>Every States, regardless geological conditions</p>	<p><b>&gt; 200 M</b></p> <p>Natural prolongation of its land territory</p>
---	--

Zone	Breadth	Scope	Coastal state	Other States
<b>Internal waters</b>	Landward side of baseline	Sea, air space, seabed, subsoil	Sovereignty	-
<b>Territorial sea</b>	Up to 12 nm (to be proclaimed)	Sea, air space, seabed, subsoil	Sovereignty	Right of innocent passage
<b>Contiguous zone</b>	Up to 24 nm (to be proclaimed)	Sea and seabed	Limited jurisdiction to enforce customs, fiscal, immigration or sanitary laws	Certain freedoms, including navigation
<b>Exclusive economic zone</b>	Up to 200 nm (to be proclaimed)	Sea, seabed and subsoil	Sovereign rights and jurisdiction regarding natural resources and related activities	Certain freedoms, including navigation
<b>Continental shelf</b>	Up to 200 nm or beyond ("extended" continental shelf) (inherent)	Seabed and subsoil	Sovereign rights regarding natural resources	Limited freedom to lay submarine cables and pipelines





## High Seas

The diagram illustrates the various maritime zones extending from a coastal state's land. From the land outwards, the zones are: Internal Waters (including the Mouth of a River and a Bay), the Territorial Sea (12 nautical miles), the Contiguous Zone (24 nautical miles), the Exclusive Economic Zone (200 nautical miles), and the High Seas. Below the surface, the Continental Shelf is shown, extending to the Foot of the Continental Slope and ending at the Outer Limits of the Continental Shelf beyond 200 M. The Area is defined as the seabed and subsoil beyond the continental shelf. A Straight Baseline/Closing Line is also indicated for bays and rivers.

- **Art. 86-120**
- **Not subject to the jurisdiction of any State**
- Freedom of High Seas (art. 87(1)) ⇔ due regard (art. 87(2)) and peaceful purposes (art. 88)

## High Seas

Art. 87(1) Freedom of the high seas comprises *inter alia*

Navigation

Overflight

Submarine cables & pipelines

Construct. of arti. islands & other

Fishing

MSR

These freedoms are

- Subject to **relevant provisions of UNCLOS** – art. 87(1)
- Must be exercised with **due regard to the interests of other States** – art. 87(2)
- + **The high seas shall be reserved for peaceful purposes** – art. 88

## High Seas

The diagram illustrates the various maritime zones extending from a coastal state's land. From the land outwards, the zones are: Internal Waters (including the Mouth of a River and a Bay), the Territorial Sea (up to 12 nautical miles), the Continental Shelf (up to 200 nautical miles or to the foot of the continental slope), and the High Seas. It also shows the Exclusive Economic Zone (EEZ) extending to 200 nautical miles. Baselines are shown as Normal and Straight Baseline/Closing Lines. The Outer Limits of the Continental Shelf beyond 200 M are also indicated.

### Flag State Jurisdiction

**Art. 92-94**

- Ships must fly the flag of a single State and are under its exclusive jurisdiction – art. 92
- Every State must effectively exercise its jurisdiction and control over ships flying its flag – art. 94
- In doing so, States must conform to generally accepted international regulations, procedures and practices (e.g. IMO, ILO, ...)

## The Area

The map shows the world's oceans with the 'The Area' highlighted in yellow, representing the seabed and ocean floor beyond national jurisdiction. The map includes a legend and a scale bar.

- **Art. 133-191**
- The seabed and ocean floor and subsoil beyond the limits of national jurisdiction (art. 1(1))
- Common heritage of [hu]mankind (art. 136)
- Managed by the International Seabed Authority (ISA)




## Archipelagic States

- **Art. 46-54 (Part IV)**
- “constituted wholly by one or more archipelagos and may include other islands” – art. 46
- Island, waters and other natural features forming an “**intrinsic geographical, economic or political entity**”
- Entitled to draw **archipelagic baselines**
- **Sovereignty over archipelagic waters**
- Other States have right of innocent passage (and archipelagic sea lane passage if lanes are designated)



## Islands




**Art. 121**

- (1) "a **naturally formed area of land, surrounded by water, which is above water at high tide**"
- (2) Islands are entitled to **territorial sea, contiguous zone, EEZ and continental shelf**
- (3) "Rocks which cannot sustain human habitation or economic life of their own shall have **no exclusive economic zone or continental shelf.**"

Art. 60(8) Artificial islands do not possess the status of island.

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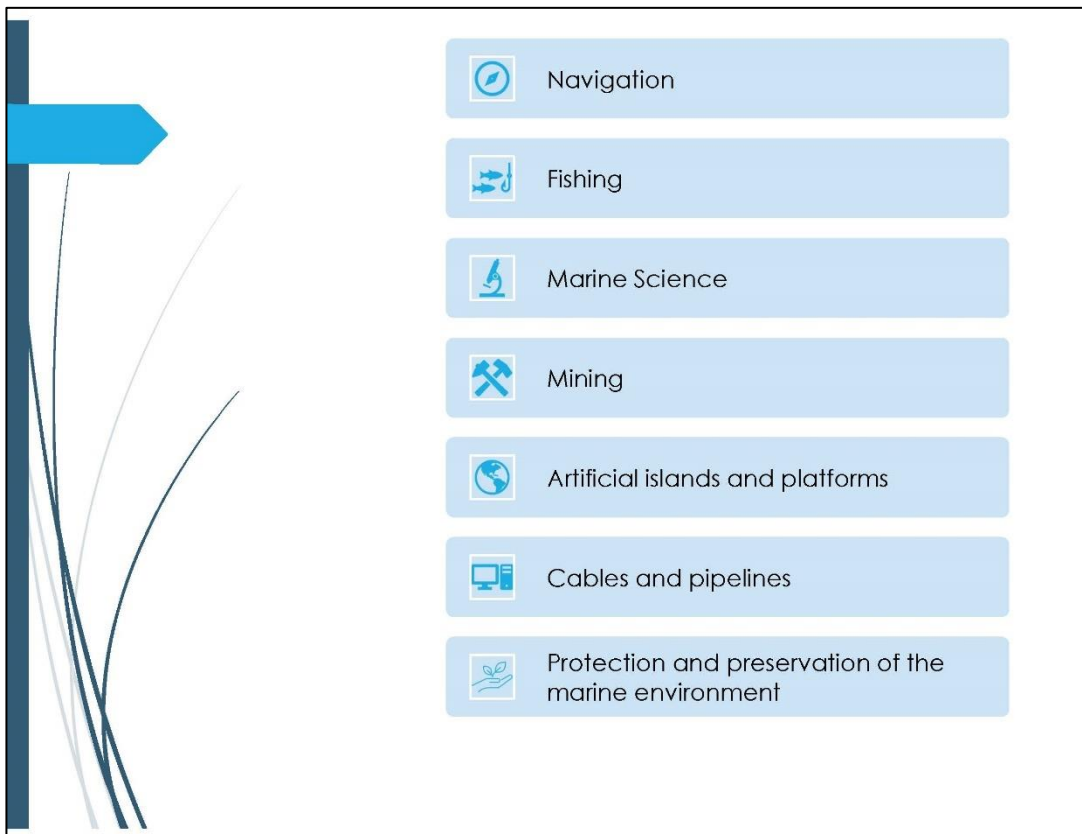
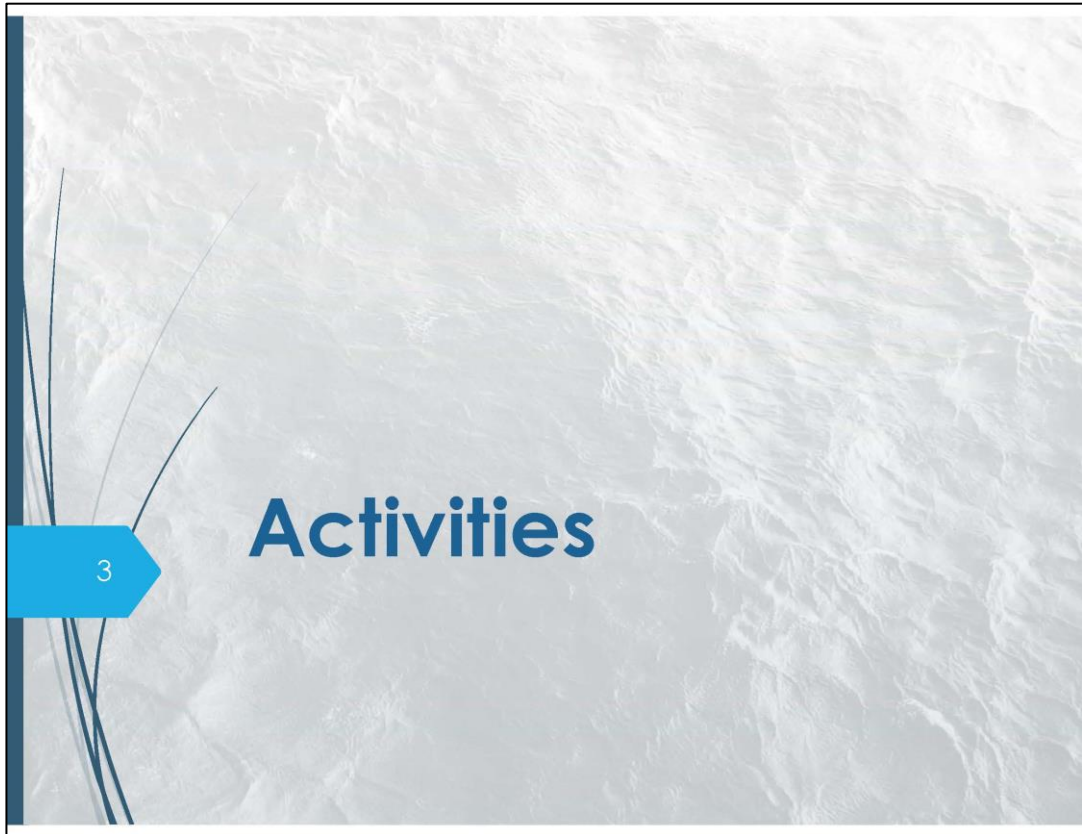
## Islands – the example of Rockall

Island or Rock?



## Maritime zones: key points

- UNCLOS sets out different maritime zones measured from baselines
- In each zone, the rights and jurisdiction of the coastal State are balanced against the freedoms of other States
- In general, the further away from the coast, the less strong the rights and jurisdiction of the coastal state and the more freedoms other States enjoy





Venti Views | Unsplash

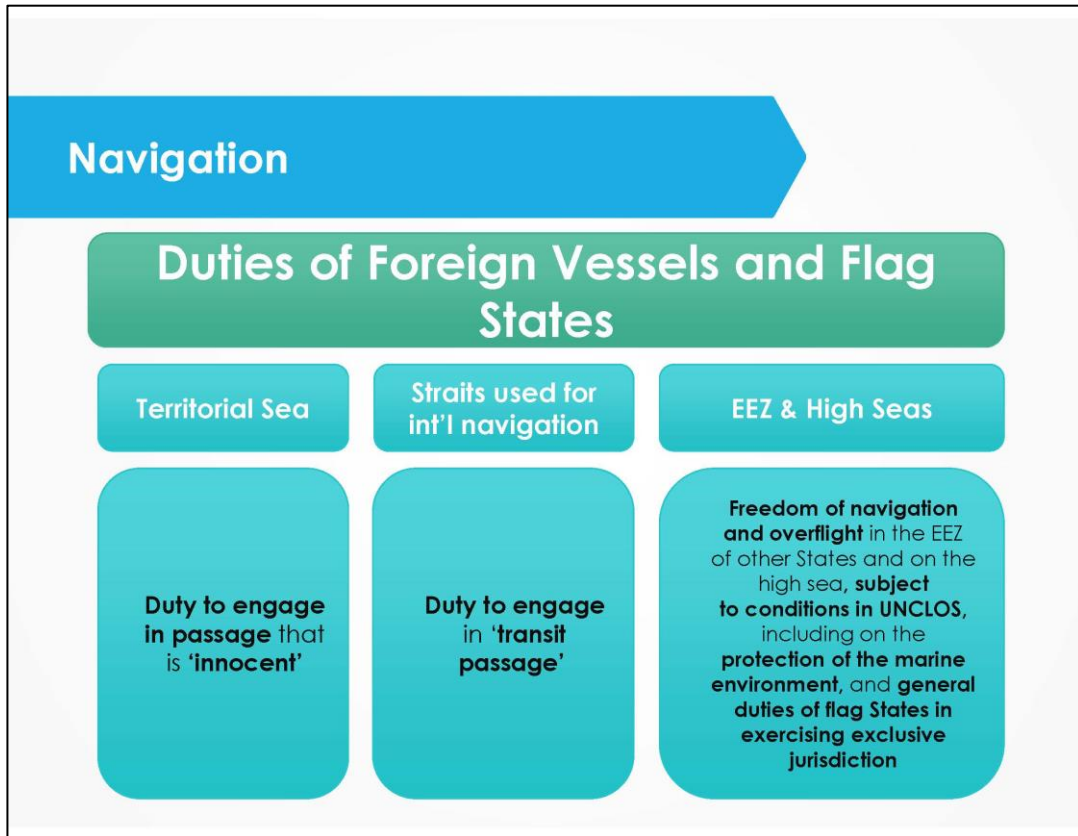
## Navigation

- **UNCLOS** sets out the legal regime for navigation (and overflight), including **rights of passage and responsibilities of coastal States and flag States**
- This framework is complemented by **other international instruments**, including those established under the auspices of the International Maritime Organization (IMO)


## Navigation

### Duties of Coastal States

Territorial Sea	Straits used for int'l navigation	EEZ
<p><b>Duty</b> of coastal State not to <b>hamper innocent passage</b> of foreign ships, subject to sea lanes and traffic separation schemes, laws and regulations</p>	<p>States bordering straits, <b>shall not hamper or suspend transit passage</b>, subject to sea lanes and traffic separation schemes, laws and regulations</p>	<p><b>Duty of due regard</b> for rights and duties of other States, including freedom of navigation</p>



## Fishing



- **UNCLOS** sets out the overarching legal regime for sustainable fisheries under international law
- **1995 United Nations Fish Stocks Agreement (UNFSA)** sets out a more detailed legal regime for straddling fish stocks and highly migratory fish stocks
- Complemented by **other international instruments** (e.g. FAO instruments, General Assembly resolutions, RFMO instruments and biodiversity instruments)

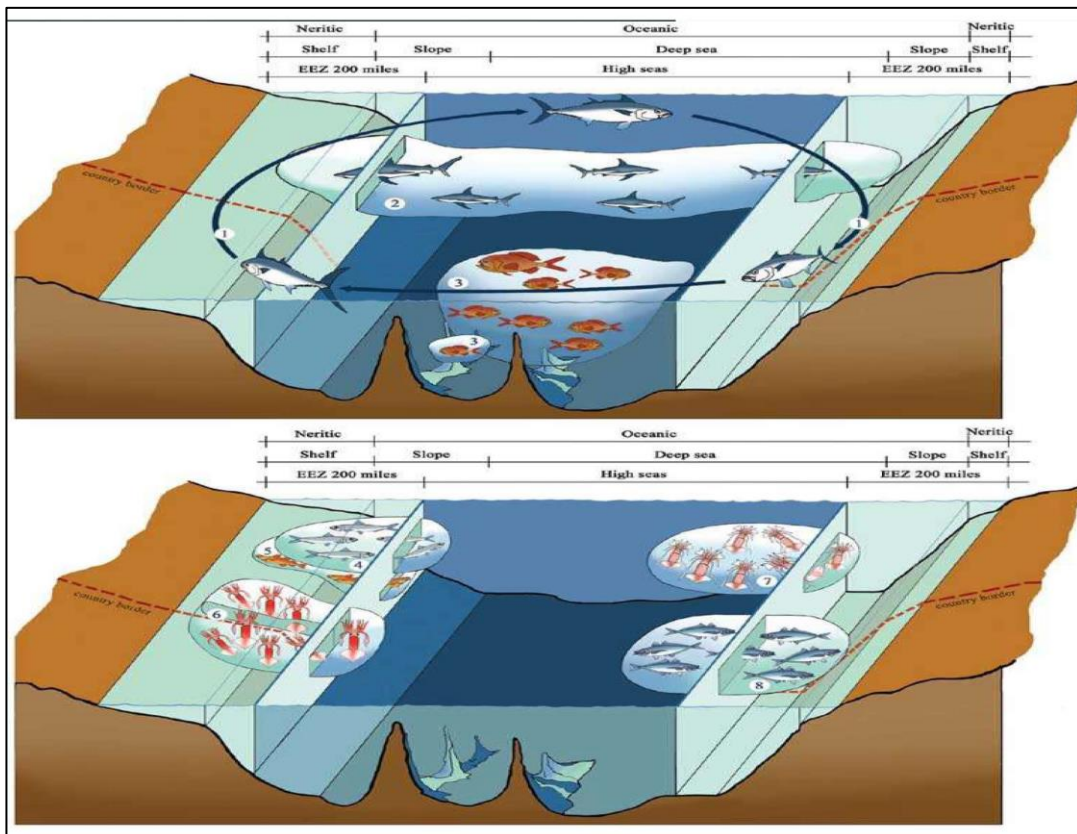
Cao Ngyyen VU | #UNWorldOceansDay



## Fishing

### Overview of the fish stocks

- Local fish stocks (arts. 61 and 62 UNCLOS)
- Shared/transboundary fish stocks (art. 63:1 UNCLOS)
- Straddling fish stocks (art. 63:2 UNCLOS + UNFSA)
- Highly migratory fish stocks (art. 64 UNCLOS + UNFSA)
- Discrete high seas fish stocks (Part VII, section 2 UNCLOS)
- Anadromous stocks (art. 66 UNCLOS)
- Catadromous species (art. 67 UNCLOS)
- Sedentary species (art. 77:4 UNCLOS)
- Marine mammals (arts. 65 and 120 UNCLOS)



## Fishing

### In the territorial sea

Full sovereignty of the coastal State

### In the EEZ

- Coastal States have sovereign rights over marine living resources
- Coastal States have the obligation to conserve and manage marine living resources and to promote “optimum utilization”
- Coastal State has the obligation to grant other States the right of access to “surplus” of the allowable catch, under terms and conditions (e.g. in licences)

## Fishing

### In the High Seas

- Legal framework provided in Part VII, Section 2 of UNCLOS
- Freedom of fishing on the high seas, subject to certain treaty obligations, and the rights, duties and interests of coastal States
- Duty to cooperate in the conservation and management of high seas stocks
- Duty to adopt measures for conservation of high seas stocks

## Problem of overfishing

- Relocation of fishing fleets in the 1980s after the extension of fisheries jurisdiction and the establishment of the EEZ
- Overfishing primarily of straddling and highly migratory fish stocks in areas adjacent to EEZs
- Fishing overcapacity
- Depletion of several straddling stocks brought to the fore shortcomings in the high seas fisheries regime of UNCLOS – general and vague provisions

## Marine Science

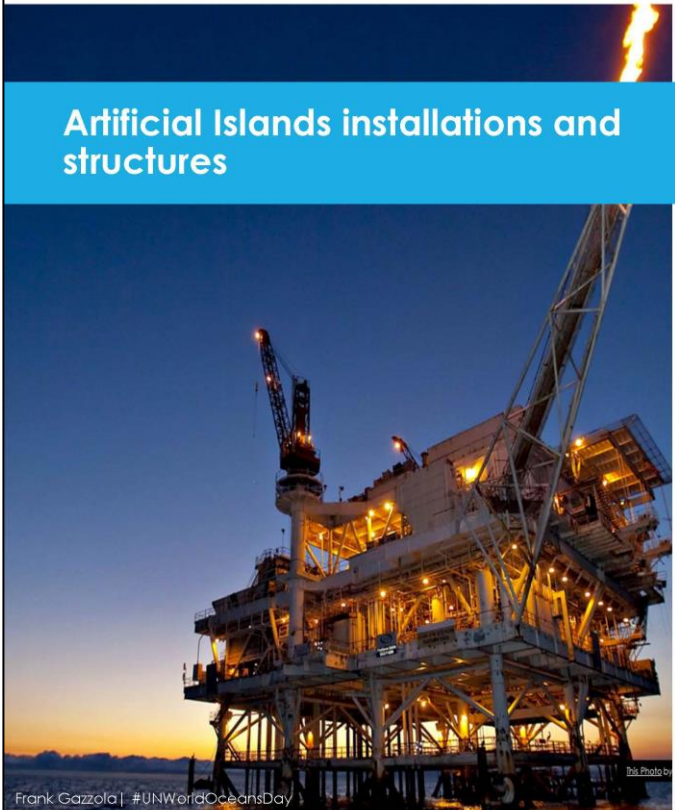


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- Ocean is still the last major unknown ecosystem on earth
- **UNCLOS (Part XIII)** lays down a comprehensive global regime for the promotion and conduct of MSR and cooperation in such research
- **No definition** of MSR in UNCLOS.







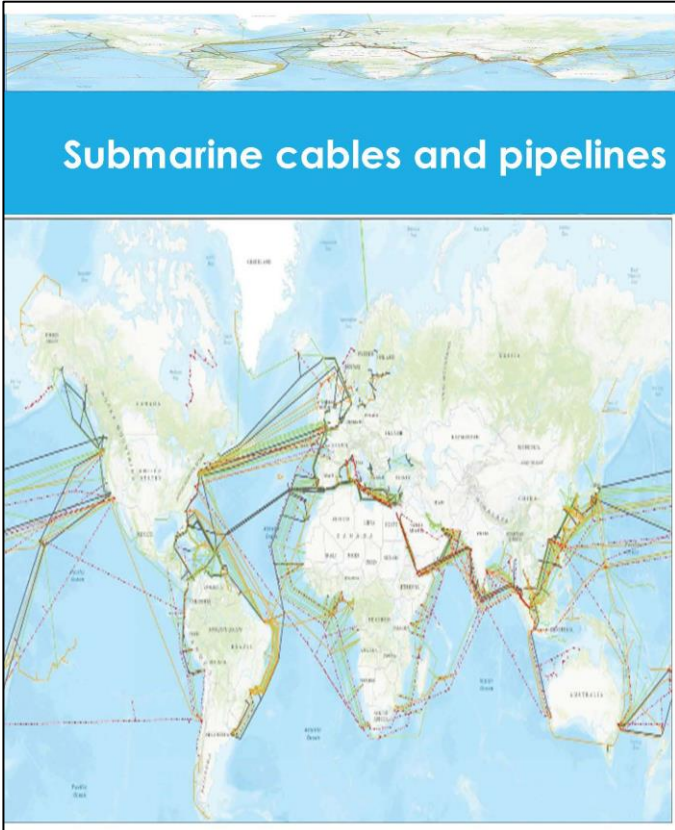
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## Artificial Islands installations and structures

EEZ – Article 56 and 60  
Continental shelf – Article 80

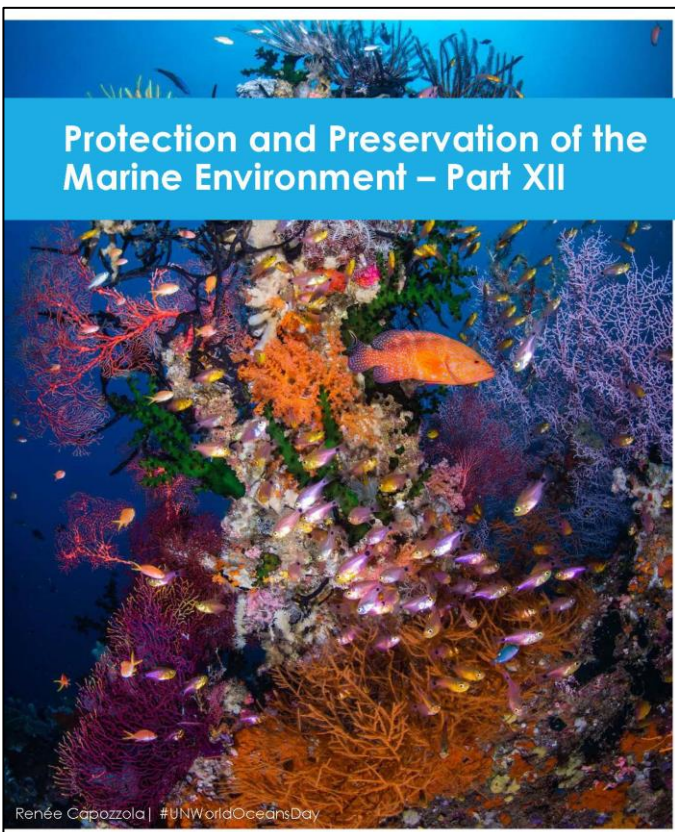
**Safety zones**

- Coastal States may, where necessary, **establish reasonable safety zones around artificial islands, installations and structures**
- Coastal States may take **appropriate measures to ensure the safety** both of navigation and of the artificial islands, installations and structures
- The breadth of **the safety zones shall not exceed a distance of 500 metres**



### Submarine cables and pipelines

- **Territorial sea:** Article 21(1)(c)
- **EEZ:** Article 58
- **Continental shelf:** Article 79
- **High seas:** Article 112 and 113-115

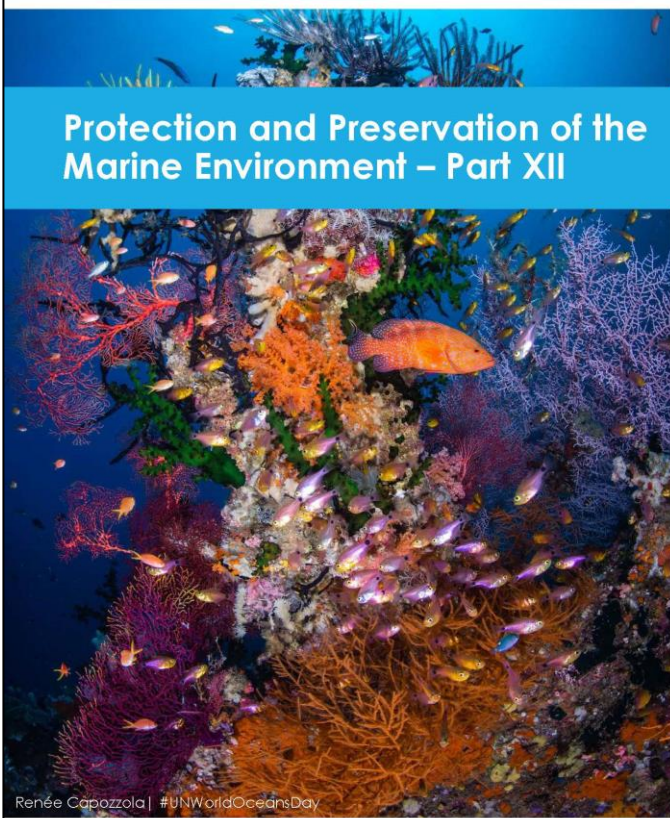


### Protection and Preservation of the Marine Environment – Part XII

- UNCLOS was the **first multilateral treaty** to introduce a **comprehensive set of articles on the protection and preservation of the marine environment**
- This followed a growing interest in environmental issues following the 1972 Stockholm Conference on the Human Environment (which saw the establishment of UNEP) and the conclusion of a number of specific conventions on marine pollution, such as the London Dumping Convention (1972) and the MARPOL Convention (1973).

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## Protection and Preservation of the Marine Environment – Part XII

### General obligation

- **General obligation to protect and preserve the marine environment (art. 192)**

= all States  
= in all maritime zones

## Protection and Preservation of the Marine Environment – Part XII

### Other general obligations (art. 194-196)

- Prevent, reduce and control **pollution from any source** (e.g. seabed, vessels, atmosphere, land-based, alien species)
- Ensure that activities under a State's jurisdiction or control are so conducted as **not to cause damage by pollution to other States** and their environment
- Ensure that **pollution** arising from incidents or activities under a State's jurisdiction or control **does not spread beyond the areas where they exercise sovereign rights.**
- Measures to protect and preserve **rare or fragile ecosystems** and the habitat of depleted, threatened or endangered species and other forms of marine life
- Duty **not to transfer damage or hazards or transform one type of pollution into another**
- Prevent, reduce and control **pollution** from **use of technologies or introduction of alien or new species**

## Protection and Preservation of the Marine Environment – Part XII

### Definition of pollution – art. 1(4)

"**pollution of the marine environment**" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities

From Land-Based Sources  
(art. 207)

From activities subject to national jurisdiction  
(art. 208)

From activities in the Area  
(art. 209)

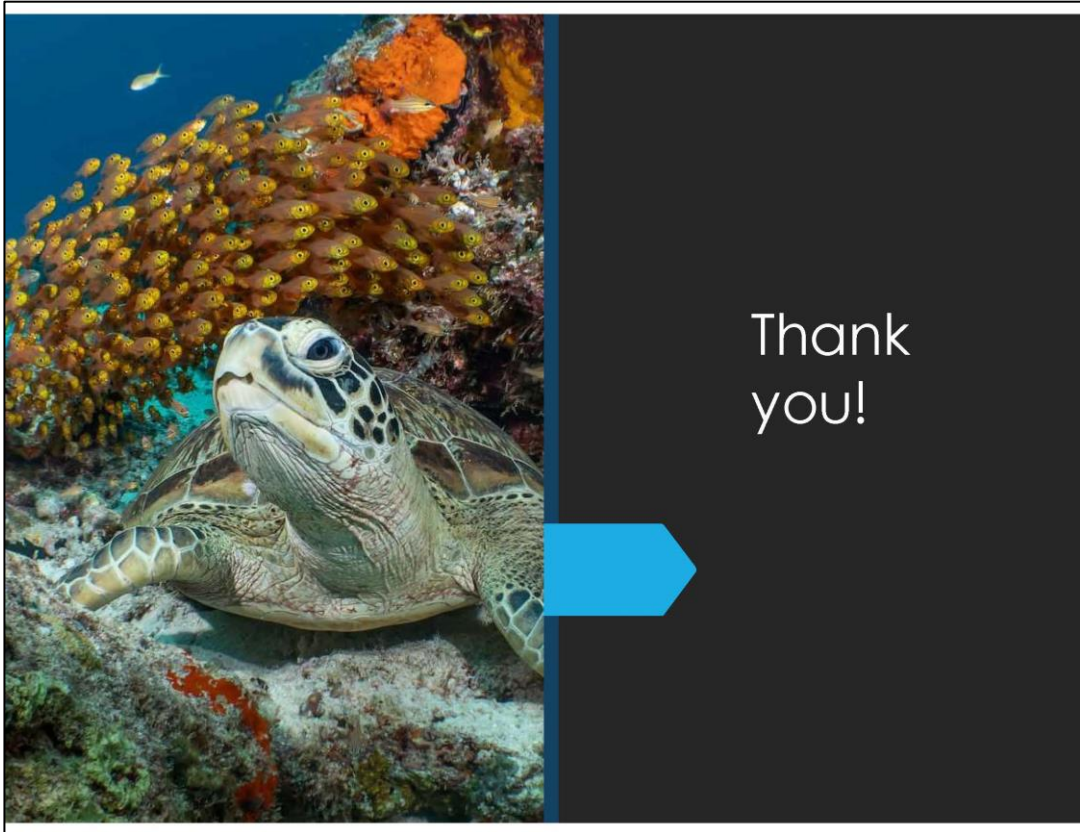
By dumping  
(art. 210)

From or through the atmosphere  
(art. 212)

From vessels  
(art. 211)

### Activities: key points


- UNCLOS sets out rights and obligations of States with regard to different activities in the ocean, including fishing, navigation and other activities.
- These provisions are typically complemented by other international and regional instruments.







Bangkok, Thailand  
6 - 9 November 2023

**UN** 

Office of Legal Affairs  
Division for Ocean  
Affairs and the  
Law of the Sea

**Regional Training Course on the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) in Fisheries Perspective**

*Overview of the United Nations Fish Stocks Agreement*

**Michele Ameri**      **Legal Officer**  
[amerim@un.org](mailto:amerim@un.org)

## IMPORTANT

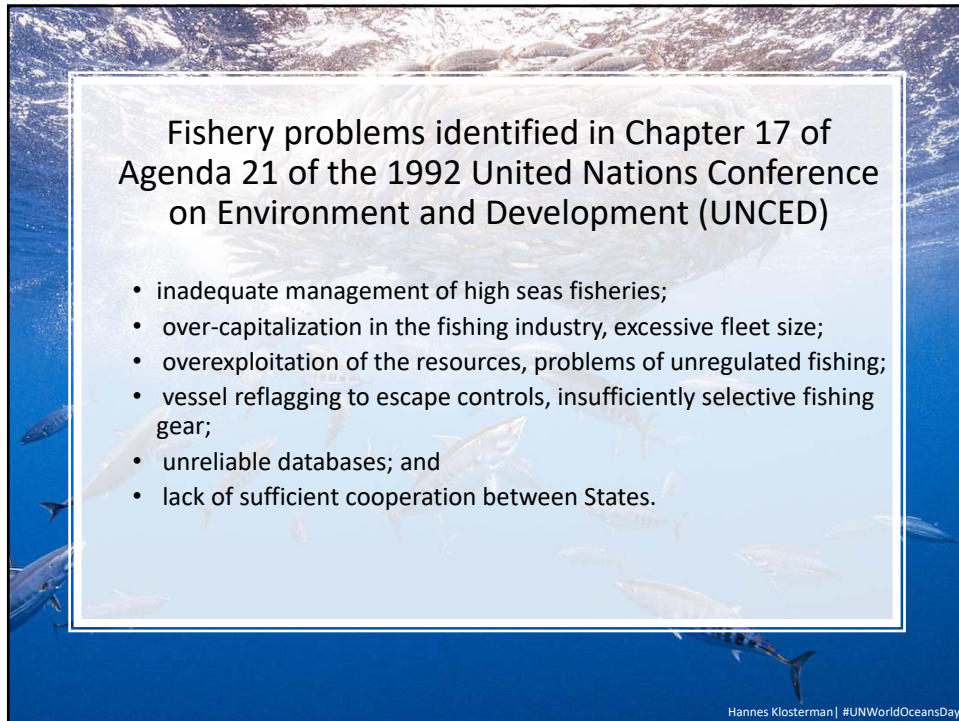
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Unless expressly stated otherwise, the findings, interpretations and conclusions, if any, expressed in this lecture are those of the United Nations staff member who prepared it and/or deliver it and do not necessarily represent the views of the United Nations or its Member States.





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**Fishery problems identified in Chapter 17 of Agenda 21 of the 1992 United Nations Conference on Environment and Development (UNCED)**

- inadequate management of high seas fisheries;
- over-capitalization in the fishing industry, excessive fleet size;
- overexploitation of the resources, problems of unregulated fishing;
- vessel reflagging to escape controls, insufficiently selective fishing gear;
- unreliable databases; and
- lack of sufficient cooperation between States.

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**United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks**

- At the request of UNCED, the General Assembly 1992 in its resolution 47/192 (1992) convened the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks to focus on the best way to ensure the long term-sustainability of these stocks, including measures for their conservation and management;
- On 4 August 1995, the Conference adopted the UN Fish Stocks Agreement;
- On 11 December 2001, the Agreement entered into force, following the deposit by Malta of the thirtieth instrument of accession with the Secretary-General.

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## United Nations Fish Stocks Agreement

- Full title: United Nations 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
- Concluded 4 August 1995; in force 11 December 2001
- 93 Parties (including the European Union)
- Provides a framework for cooperation in the conservation and management of fishery resources within and beyond areas of national jurisdiction
  - Precautionary approach
  - Compatibility between measures within and beyond national jurisdiction
  - Role of regional fisheries management organizations and arrangements
  - Strengthened compliance and enforcement regime
  - Recognition of special requirements of developing States

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## UNCLOS and the United Nations Fish Stocks Agreement

- UNCLOS = overarching legal regime for sustainable fisheries under international law
- United Nations Fish Stocks Agreement = detailed legal regime for straddling fish stocks and highly migratory fish stocks
- Complemented by other international rules

The Law of the Sea  
United Nations Convention on the Law of the Sea  
Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea

Food and Agriculture Organization of the United Nations  
International Fisheries Instruments with Index  
Division for Ocean Affairs and the Law of the Sea  
Office of Legal Affairs  
United Nations



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## United Nations Fish Stocks Agreement

THE FULL AND EFFECTIVE IMPLEMENTATION OF UNFSA HELPS STATES:

 Promote the long-term sustainability of fisheries	 Combat illegal, unregulated and unreported fishing	 Maintain and strengthen the current system of regional governance in fisheries	 Strengthen the inclusiveness and effectiveness of RFMOs	 Meet global goals and commitments on fisheries	 Address current and future challenges to sustainability of fish stocks
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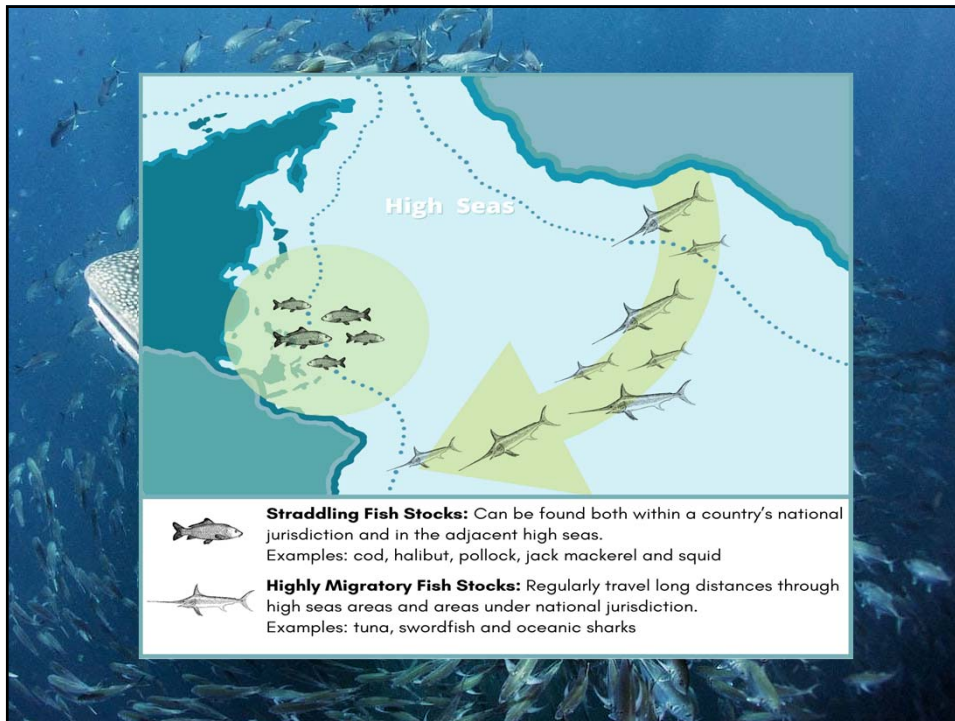
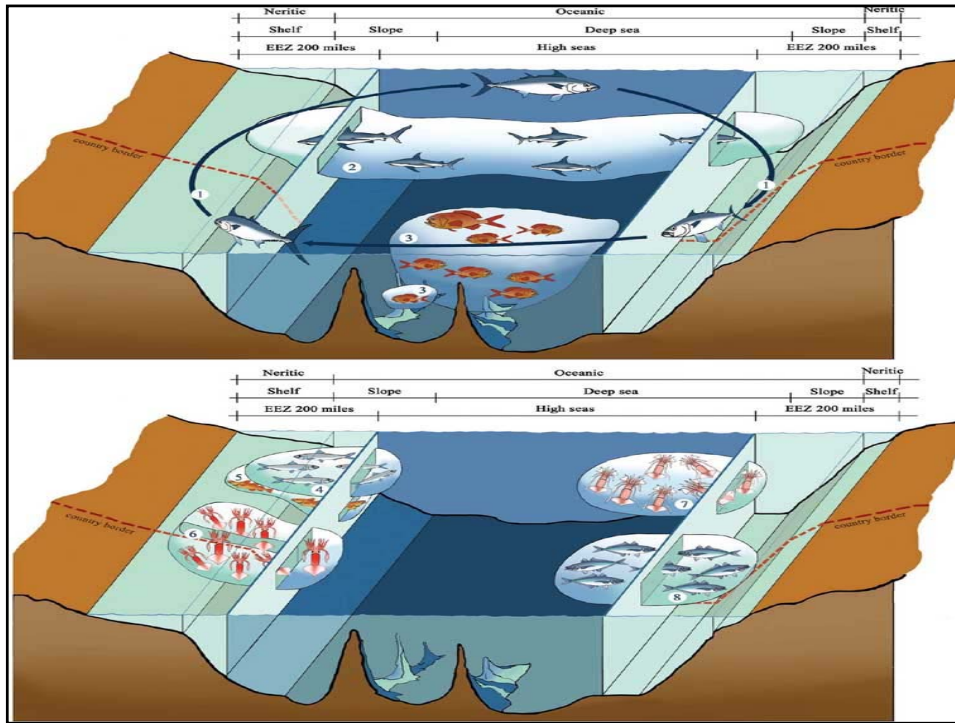
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## Part I UNFSA: General Provisions

- Use of terms and scope (Article 1)
- Objective (Article 2)
  - The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.
- Application (Article 3)
  - Mainly conservation and management in ABNJ except articles 5, 6 and 7.
- Relationship between this Agreement and the Convention (Article 4)
  - Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

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**UNCLOS Cooperation for specific stocks**

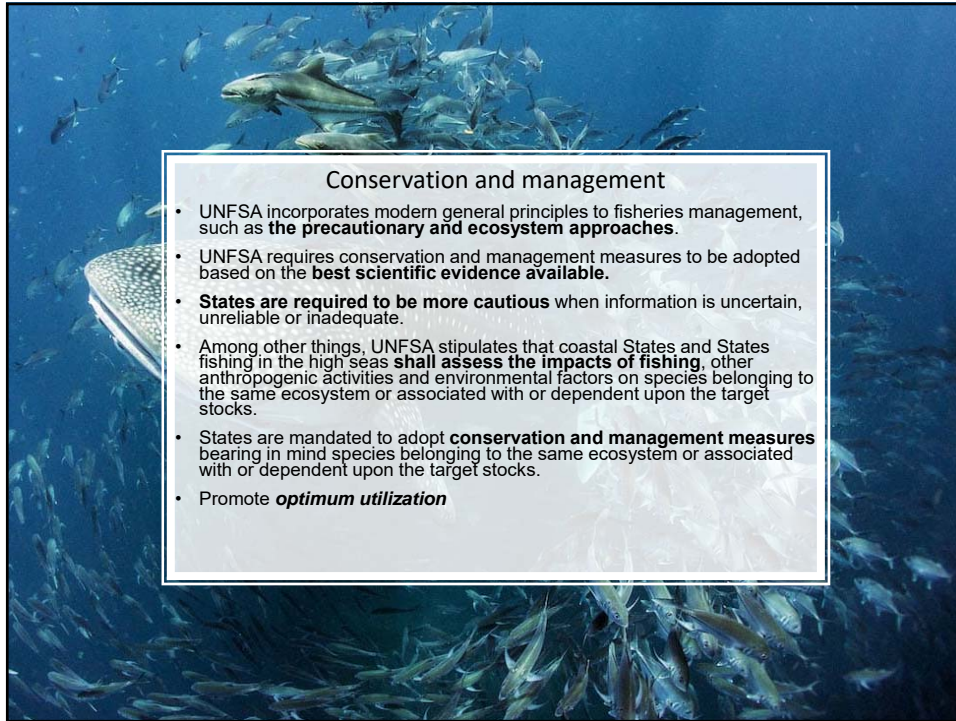
- **Straddling fish stocks (Article 63(2) UNCLOS)**
  - the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area
- **Highly migratory fish stocks (Article 64 UNCLOS)**
  - The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organization and participate in its work.

**Part II UNFSA: Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

- **General Principles (Article 5)**
  - Promote optimum utilization (Article 5 (a))
  - Measures based on the best scientific evidence available (Article 5 (b))
  - Precautionary approach (Article 5 (c), see also Article 6)
  - Ecosystem approach (Article 5 (d) and (e))
  - Minimize pollution (Article 5 (f))
  - Protection of marine biodiversity (Article 5 (g))
  - Prevent or eliminate overfishing (Article 5 (h))
  - Interests of artisanal or subsistence fishers (Article 5 (i))
  - Data collection (Article 5 (j))
  - Scientific research (Article 5 (k))
  - Monitoring, control and surveillance (Article 5 (l))

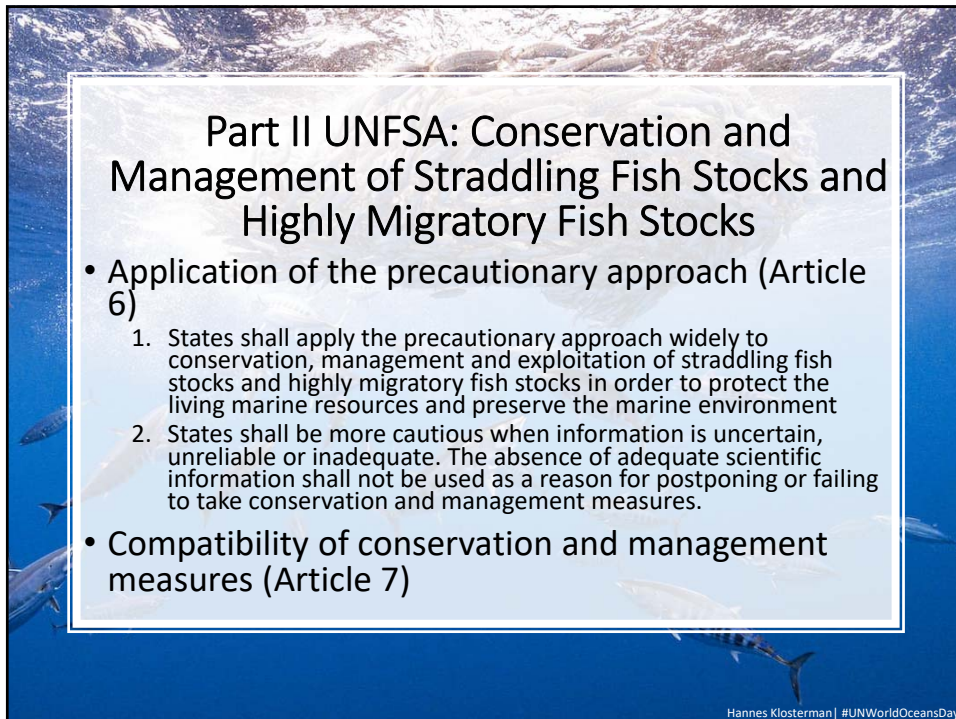
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**Conservation and management**

- UNFSA incorporates modern general principles to fisheries management, such as **the precautionary and ecosystem approaches**.
- UNFSA requires conservation and management measures to be adopted based on the **best scientific evidence available**.
- **States are required to be more cautious** when information is uncertain, unreliable or inadequate.
- Among other things, UNFSA stipulates that coastal States and States fishing in the high seas **shall assess the impacts of fishing**, other anthropogenic activities and environmental factors on species belonging to the same ecosystem or associated with or dependent upon the target stocks.
- States are mandated to adopt **conservation and management measures** bearing in mind species belonging to the same ecosystem or associated with or dependent upon the target stocks.
- Promote **optimum utilization**



**Part II UNFSA: Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

- Application of the precautionary approach (Article 6)
  1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment
  2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.
- Compatibility of conservation and management measures (Article 7)

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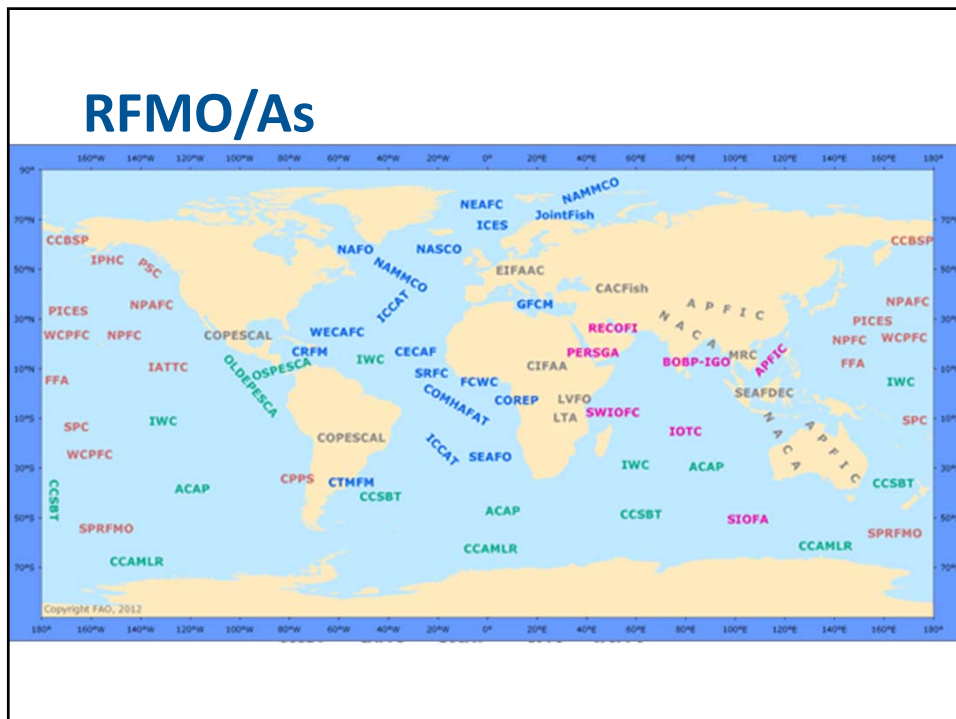


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### Part III UNFSA : Mechanisms for International Cooperation

- Cooperation for conservation and management (Article 8)
- Subregional and regional fisheries management organizations and arrangements (RFMO/As) (Article 9)
- Functions of RFMO/As (Article 10)
- New members or participants (Article 11)
- Transparency in activities of RFMO/As (Article 12)
- Strengthening of existing organizations and arrangements (Article 13)
- Collection and provision of information and cooperation in scientific research (Article 14)
- Enclosed and semi-enclosed seas (Article 15)
- Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State (Article 16)

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Regional Fisheries Management Organizations and Arrangements that manage highly migratory fish stocks or straddling fish stocks

NPFC, NAFO, NEAFC, GFCM, ICCAT, IATTC, SPRFMO, SEAFO, IOTC, SIOFA, WCPFC, CCSBT, CCAMLR

RFMO/As are regional bodies composed of different countries that share interest in managing and conserving fish stocks in a particular region.

UNFSA identifies RFMOs as the mechanism through which States can cooperate and fulfil their obligations to manage and conserve fish stocks.

### Cooperation

- UNFSA **strengthens the duty for States** to take or cooperate with other States in taking conservation measures, including through sub-regional or regional fisheries organizations, as codified in UNCLOS.
- To give effect to this duty, fishing States and coastal States shall **become members of these organizations or agree to their conservation and management measures**.
- Where such RFMO/As do not exist, relevant fishing and coastal States **shall cooperate to establish such organization and arrangements**.
- UNFSA also provides for **the functions of the RFMO/As** as well as for the **rights and obligations of their participants**, including sharing data about the fishery, abiding their rules, and contributing to funds for scientific assessments.



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## Part IV UNFSA: Non-members and non-participants

- Non-members of organizations and non-participants in arrangements (Article 17)
  - 1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.
  - 2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation.

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## Part V UNFSA: Duties of the flag State

- Duties of the flag State (Article 18)
  - 1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.
  - 2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.
  - Measures (Article 18(3)) include: control of such vessels on the high seas by means of fishing licences, authorizations or permits; establishment of regulations; establishment of a national record of fishing vessels authorized to fish on the high seas; requirements for marking of fishing vessels and fishing gear; requirements for recording and timely reporting of vessel position; requirements for verifying the catch of target and non-target species; monitoring, control and surveillance of such vessels; regulation of transshipment on the high seas; regulation of fishing activities to ensure compliance.
  - 4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

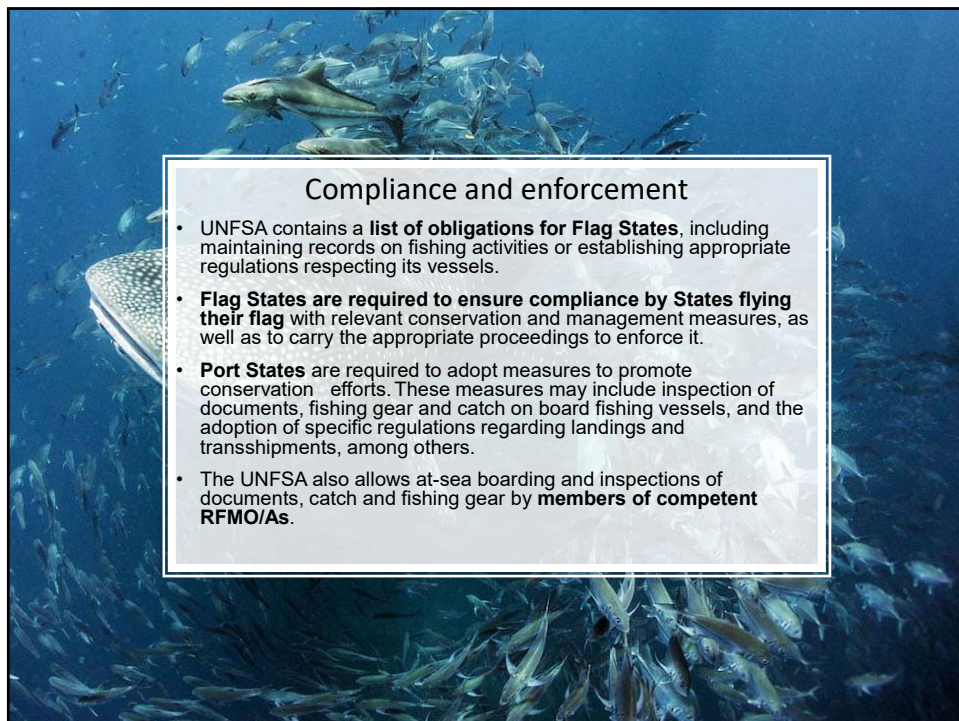
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### Part VI UNFSA: Compliance and enforcement

- Compliance and enforcement by the flag State (Article 19)
- International cooperation in enforcement (Article 20)
- Subregional and regional cooperation in enforcement (Article 21)
- Basic procedures for boarding and inspection pursuant to article 21 (Article 22)
- Measures taken by a port State (Article 23)

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### Compliance and enforcement

- UNFSA contains a **list of obligations for Flag States**, including maintaining records on fishing activities or establishing appropriate regulations respecting its vessels.
- **Flag States are required to ensure compliance by States flying their flag** with relevant conservation and management measures, as well as to carry the appropriate proceedings to enforce it.
- **Port States** are required to adopt measures to promote conservation efforts. These measures may include inspection of documents, fishing gear and catch on board fishing vessels, and the adoption of specific regulations regarding landings and transshipments, among others.
- The UNFSA also allows at-sea boarding and inspections of documents, catch and fishing gear by **members of competent RFMO/As**.



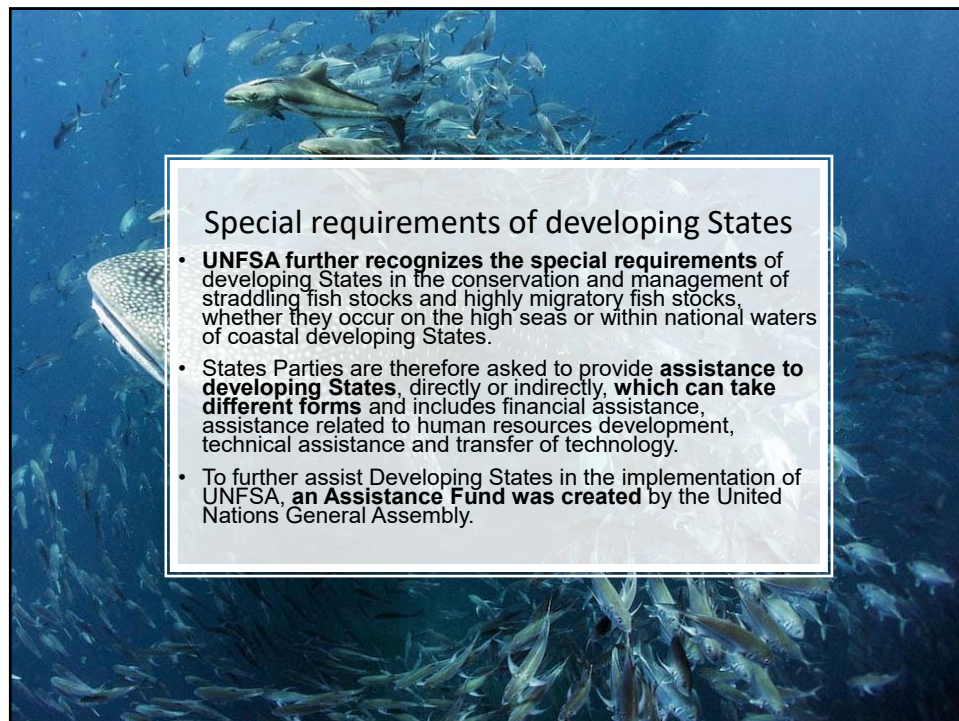
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### Part VII UNFSA: Requirements of developing States

- Recognition of the special requirements of developing States (Article 24)
- Forms of cooperation with developing States (Article 25)
- Special assistance in the implementation of this Agreement (Article 26)

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### Special requirements of developing States

- **UNFSA further recognizes the special requirements** of developing States in the conservation and management of straddling fish stocks and highly migratory fish stocks, whether they occur on the high seas or within national waters of coastal developing States.
- States Parties are therefore asked to provide **assistance to developing States**, directly or indirectly, **which can take different forms** and includes financial assistance, assistance related to human resources development, technical assistance and transfer of technology.
- To further assist Developing States in the implementation of UNFSA, **an Assistance Fund was created** by the United Nations' General Assembly.

## Part VIII UNFSA: Peaceful settlement of disputes

- Obligation to settle disputes by peaceful means (Article 27)
- Prevention of disputes (Article 28)
- Disputes of a technical nature (Article 29)
- Procedures for the settlement of disputes (Article 30)
- Provisional measures (Article 31)
- Limitations on applicability of procedures for the settlement of disputes (Article 32)

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## Part IX UNFSA: Non-parties

Part X: Good faith and abuse of rights

Part XI: responsibility and liability

Part XII: Review Conference

Part XIII UNFSA: Final provisions

Annex I UNFSA: Standard requirements for the collection and sharing of data

Annex II UNFSA: Guidelines for the application of precautionary reference points in conservation and management

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**UNFSA Review Conference**

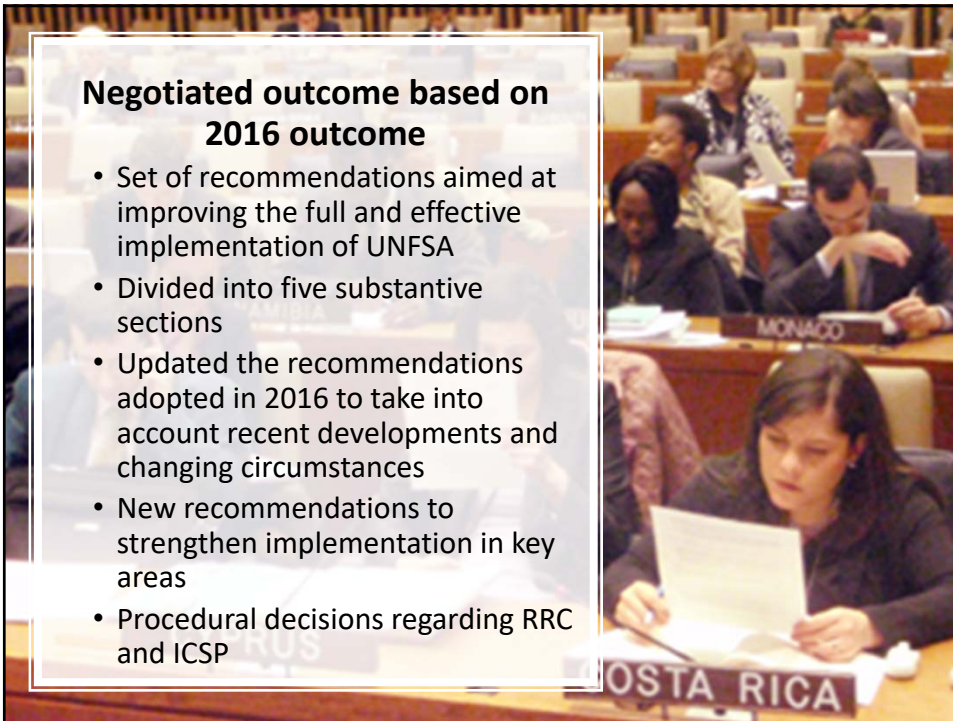
- Convened pursuant to Art. 36 of UNFSA
- Mandated to assess the effectiveness of the Agreement by reviewing and assessing the adequacy of its provisions and, if necessary, proposing means of strengthening the substance and methods of implementation of those provisions.
- Held in 2006, resumed in 2010 and 2016; adopted a series of recommendations
- Review Conference was resumed from 22 to 26 May 2023
- Open to States Parties and States or entities entitled to become parties, as well as observers, including
  - Relevant IGOs, including RFMO/As
  - Relevant NGOs.



**UNFSA Review Conference**

- Discussions on 4 topical clusters of recommendations adopted in 2016 and then on “Proposed means of further strengthening, if necessary, the substance and methods of implementation of the provisions of the Agreement”
- Outcome is summary of President plus negotiated set of recommendations
- Recommendations have impacted work of FAO, RFMO/As and States in implementing the Agreement
- May consider how recent legal developments could impact implementation of the Agreement

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**Negotiated outcome based on 2016 outcome**

- Set of recommendations aimed at improving the full and effective implementation of UNFSA
- Divided into five substantive sections
- Updated the recommendations adopted in 2016 to take into account recent developments and changing circumstances
- New recommendations to strengthen implementation in key areas
- Procedural decisions regarding RRC and ICSP

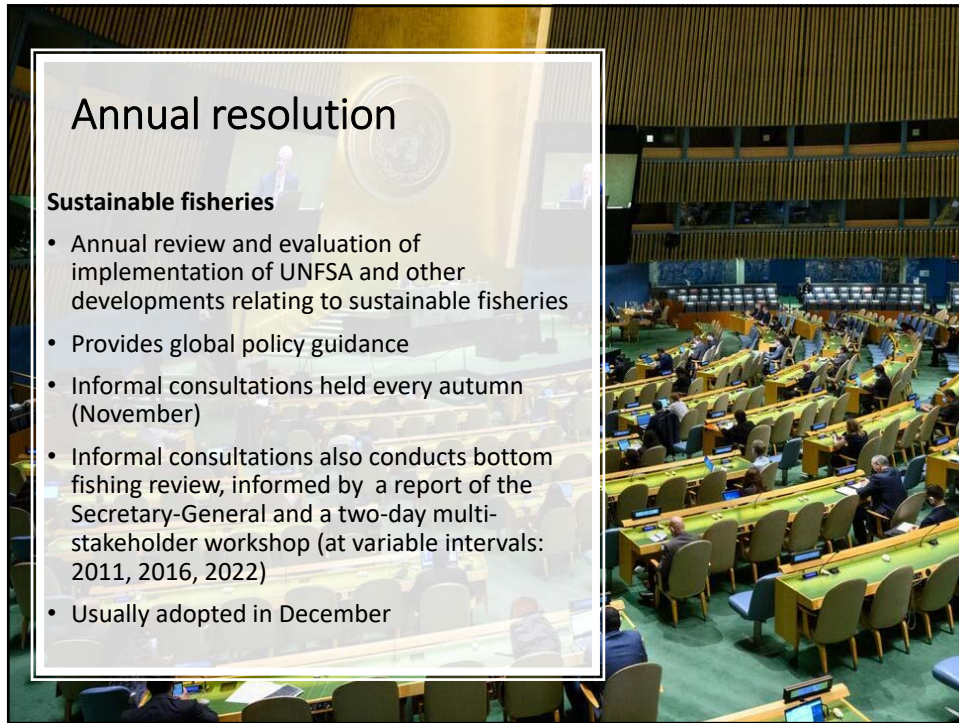


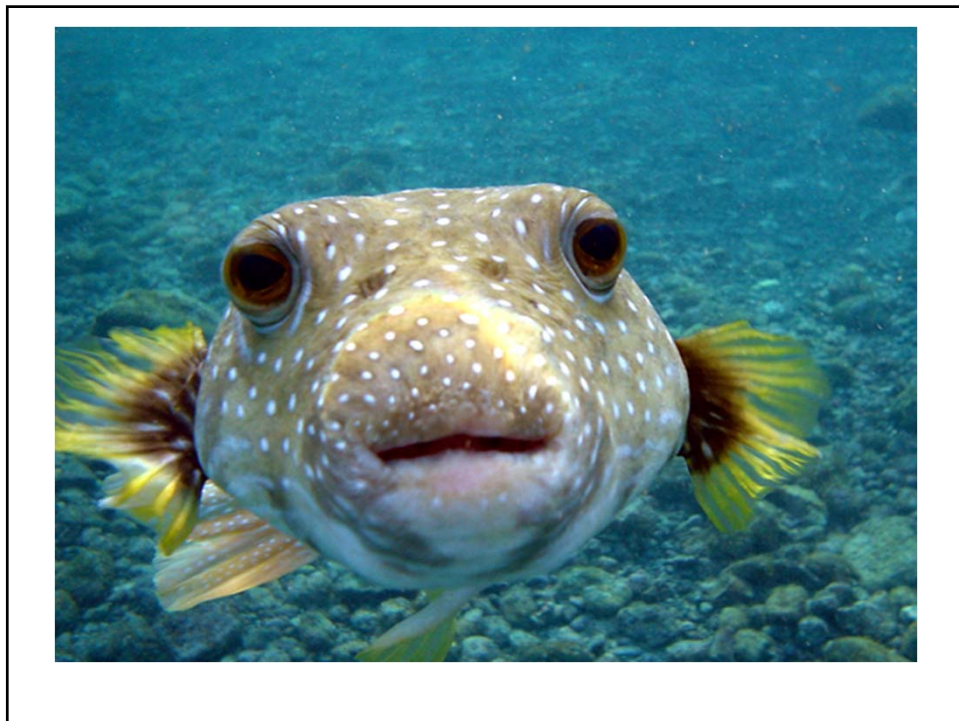
**Informal Consultations of States Parties to UNFSA**

- Established in 2001 by A/RES/56/13
- Consideration of specific issues arising from the implementation of UNFSA, regionally, sub-regionally and globally
- Assists in preparation for the Review Conference
- Reviews implementation of the Agreement
- ICSP-15 (2022) topic “Implementation of an ecosystem approach to fisheries management”
- ICSP-16 (2023) served as a preparatory meeting for the Review Conference




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## Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement)

8 November 2023

*Regional Training Course on the UNCLOS 1982  
in Fisheries Perspective*



L'ONU adopte un accord pour protéger la haute mer

الأمم المتحدة تقرّ معاهدة أعالي البحار

Gobiernos adoptan formalmente el Tratado de Alta Mar, preparando el camino para una mayor protección de los océanos

UN adopts 'historic' high seas treaty



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**Why does the Agreement matter?**

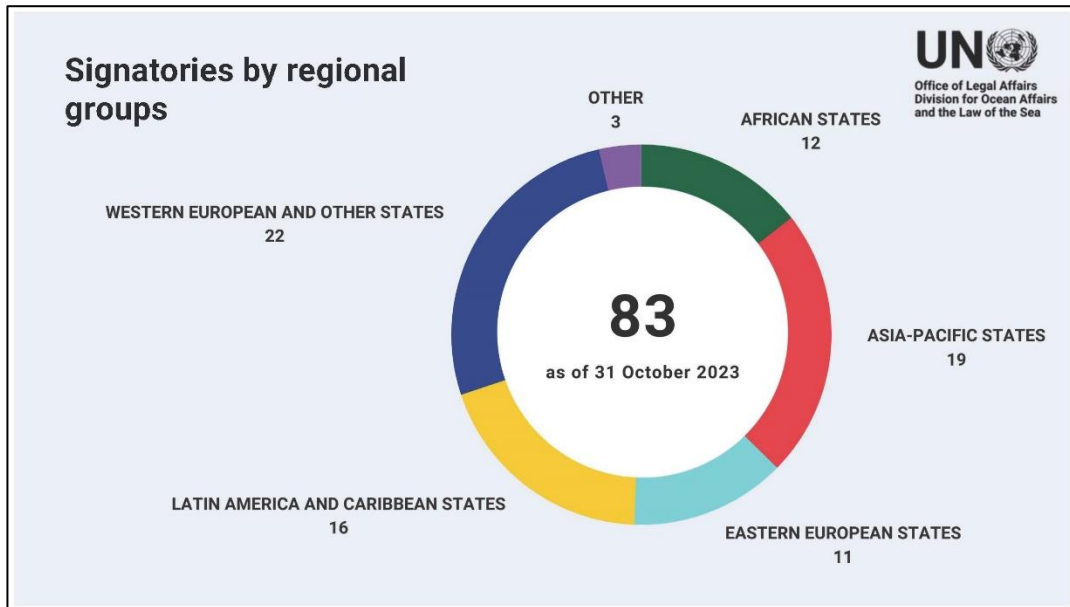
**What is in the Agreement?**

**“You have pumped new life and hope to give the ocean a fighting chance.”**

- António Guterres, UN Secretary-General

- **Open for signature: 2 years from 20 September 2023**
- **Entry into force: 120 days after 60 instruments of ratification, approval, acceptance or accession**





### United Nations Convention on the Law of the Sea (UNCLOS)

- 169 Parties
- Known as “Constitution for the ocean”

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## The “UNCLOS family” - Implementing agreements



- Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (adopted on 28 July 1994; entered into force on 28 July 1996)



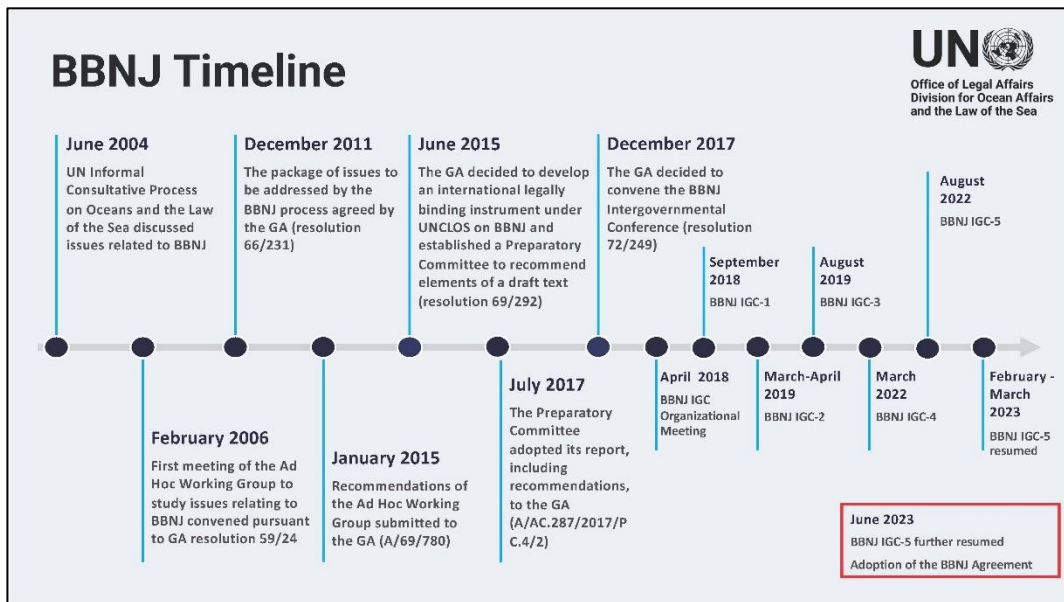
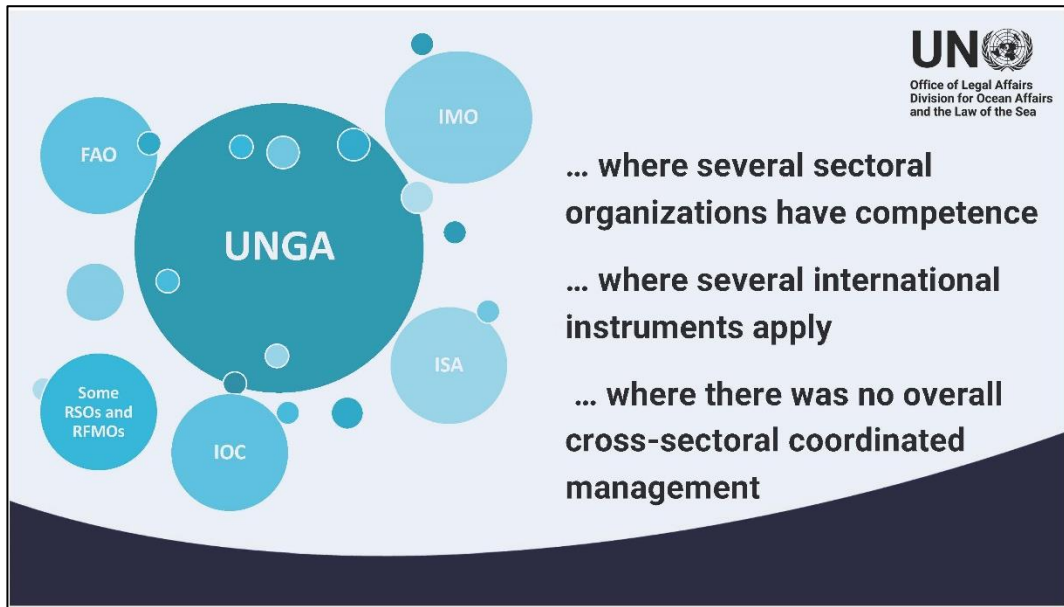
- United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (adopted on 4 August 1995; entered into force on 11 November 2001)

## BBNJ Agreement: third implementing agreement to UNCLOS

- Consistency with UNCLOS
- Not prejudice the rights, jurisdiction and duties of States under the Convention
- Legal status of non-parties to UNCLOS not affected by the Agreement









## Why does the BBNJ Agreement matter?



A path towards greater level-playing field



A vital step for our planet



A significant development for ocean affairs and the law of the sea



A crucial contributor to relevant global goals and targets




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## What is in the Agreement?

- ❖ A package of issues
- ❖ Cross-cutting issues
- ❖ 14 general principles and approaches

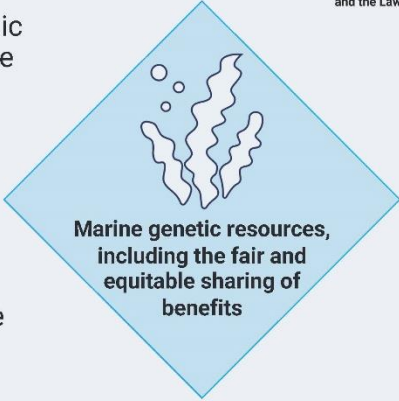
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- Relationship with other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs):
  - Not undermine relevant IFBs
  - Promote coherence and coordination with relevant IFBs
- International cooperation




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- Activities with respect to marine genetic resources (MGRs) and digital sequence information (DSI) on MGRs
- Notification
- Traditional knowledge of Indigenous Peoples and local communities
- Benefit-sharing (non-monetary and monetary)
- Access and benefit-sharing committee
- Monitoring and transparency
- Application (“carve-outs”)



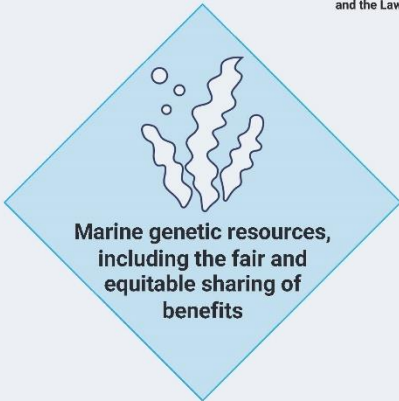
Marine genetic resources,  
including the fair and  
equitable sharing of  
benefits



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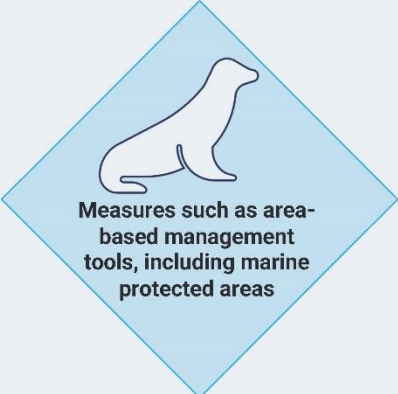

**Obligations of Parties**

- Promote cooperation
- Take the necessary legislative, administrative or policy measures
- Submit reports to the ABS Committee



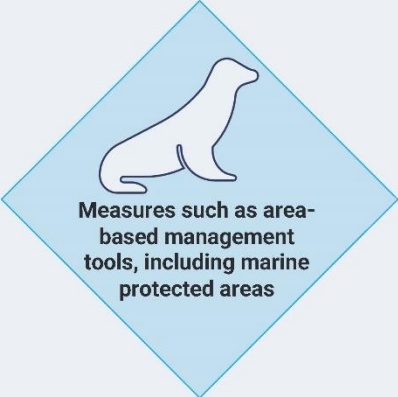
Marine genetic resources,  
including the fair and  
equitable sharing of  
benefits





Measures such as area-based management tools, including marine protected areas

- Area of Application
- Proposals on area-based management tools (ABMTs), including marine protected areas (MPAs)
- Publicity, consultations, assessments
- Establishment of ABMTs including MPAs
- Implementation
- Monitoring and review



Measures such as area-based management tools, including marine protected areas


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### Obligations of Parties

- Ensure that activities are conducted consistently with the decisions on ABMTs, including MPASs.
- Promote the adoption of measures within relevant Submit reports
- Report to the COP




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- Obligation to conduct environmental impact assessments (EIAs)
- Thresholds and factors for conducting EIAs
- Process for EIAs
- Relationship with other relevant frameworks/instruments/bodies
- State-led decision-making
- Monitoring, reporting and review
- Standards and/or guidelines




Environmental impact assessments



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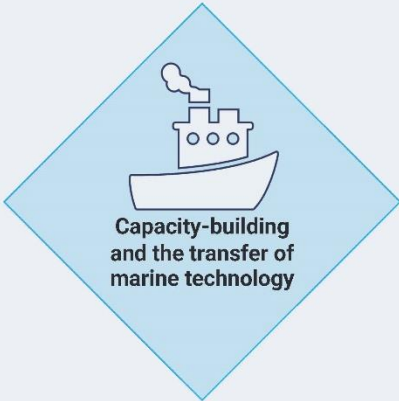
**Obligations of Parties**

- Conduct of an EIA
- Preparation and publication of EIA report
- Public notification
- Monitoring and reporting of impacts
- Consider conducting strategic environmental assessments



Environmental impact assessments





**Capacity-building and the transfer of marine technology**

- Obligation to cooperate in capacity-building (CB) and transfer of marine technology (TMT)
- Modalities for CB&TMT
- Additional modalities for TMT
- Types of CB&TMT
- Monitoring and review
- Capacity-building and transfer of marine technology committee

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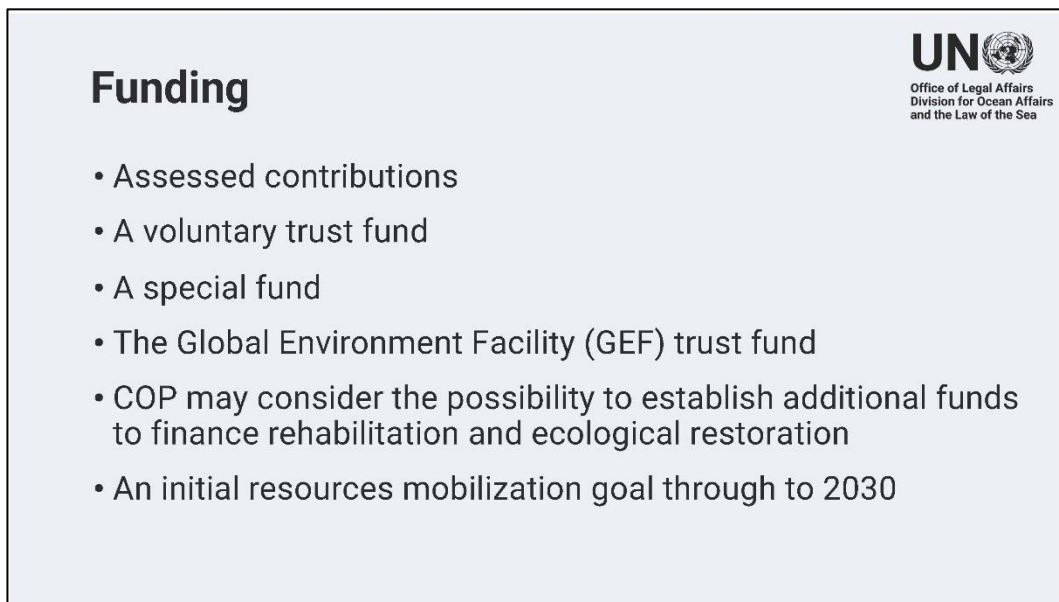
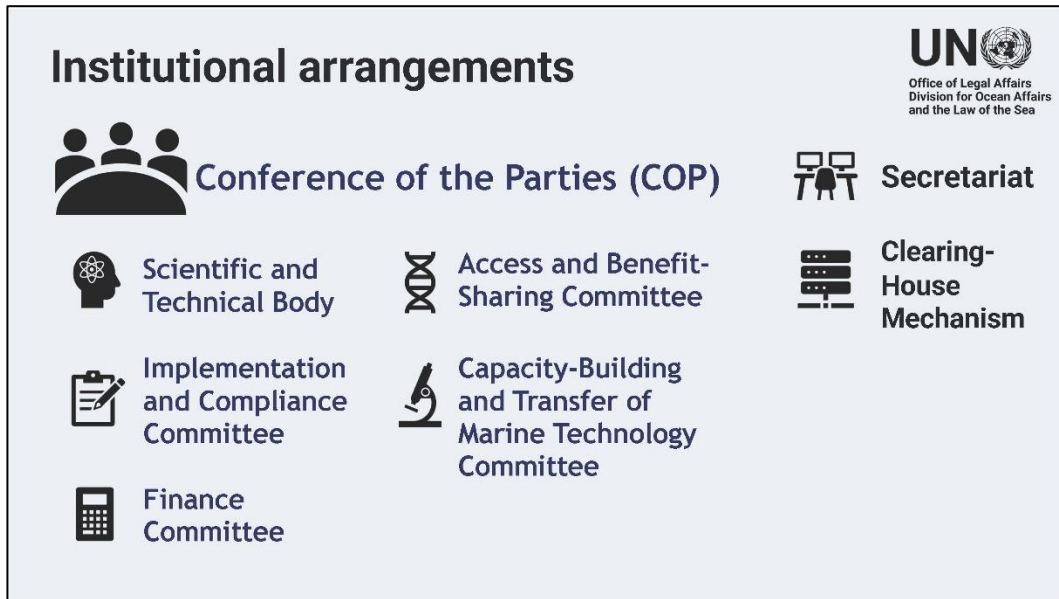
## Implementation and Compliance

### Parties to the Agreement to:

- Take measures to implement the Agreement
- Report on the Implementation to the Conference of the Parties
  - Format and frequency of the reports to be determined by the Conference of the Parties

### Implementation and Compliance Committee:

- Facilitative in nature
- Functioning in a transparent, non-adversarial, non-punitive manner
  - Consider issues of implementation at the generic and individual levels,
  - Report periodically and,
  - Make recommendations to the Conference of the Parties.



## Dispute settlement

- Obligation to cooperate to prevent disputes and to settle disputes by peaceful means



### Parties to UNCLOS

- Procedure accepted pursuant to article 287 of UNCLOS shall apply to the settlement of disputes under the Agreement
- ❖ Possibility to make a different choice of procedure

### Non-Parties to UNCLOS

- Free to choose one or more of the procedures set out in art. 287
- ❖ By means of a declaration to the depositary

## Next steps & role of DOALOS

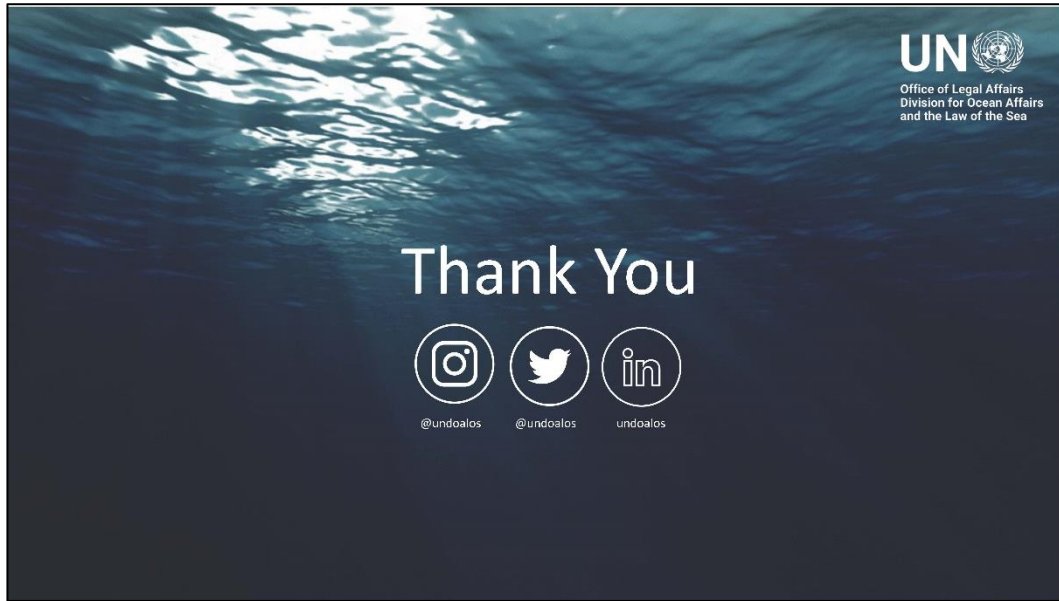
- To perform the secretariat functions until the secretariat to be established under the Agreement commences its functions
- To promote a better understanding of the Agreement
- To prepare for the entry into force of the Agreement
- To facilitate inter-agency coordination and cooperation of the UN system in supporting the entry into force and implementation of the Agreement, including through UN-Oceans







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## Asian fisheries very diverse

- Rapid expansion of fisheries during 1960s.
- With the adoption of the Law of the Sea (UNCLOS) in 1982, the Exclusive Economic Zones (EEZ) were established.
  - EEZ defines national jurisdiction within 200 nautical miles
  - Increased transboundary fishing and access agreements
  - Foreign access more rare – with an increase in joint ventures
- High number of medium and commercial scale vessels –
- Higher number of small-scale fishers and small-scale fishing vessels



## Type of fishing operations

- **Large-scale fishing operations**

- long distance multi-day trips
- Trawling, purse seining, long lining
- May operate outside of EEZ or in waters of neighbouring countries
- Large crews (reliance on migrant workers)



- **Medium size fishing operations**

- Closer to shore
- Employ crew, youth, migrant workers
- May lack adequate equipment, or in poor condition



- **Small-scale fishing operations**

## Small-scale fishing operations

- Small vessels: powered unpowered
  - Short trips, rarely long distance
  - Gears deployed by hand, limited mechanization
- Drivers of risk and hazards in fishing
  - Fishers often low income & vulnerable
  - Vessels may not be well constructed or maintained
  - Erratic income
  - Severe debt cycles
  - Family members take part in operations
  - Youth and children





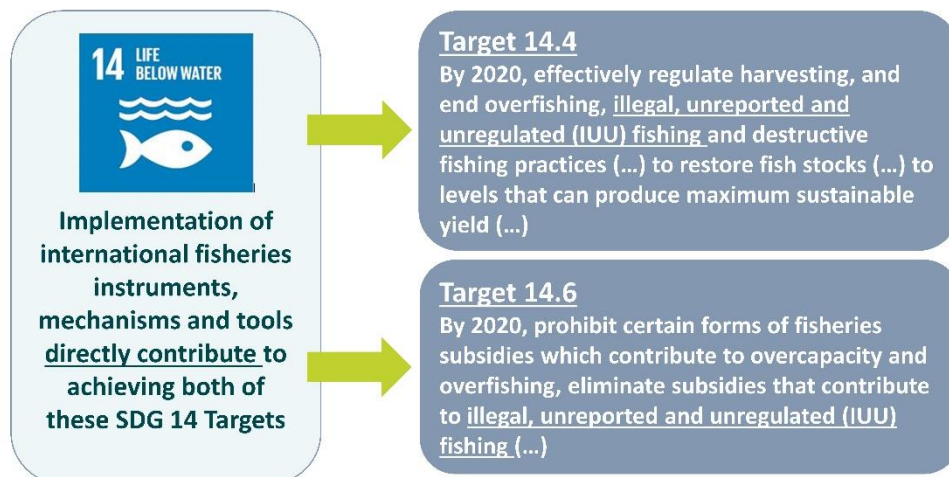
## Regional and international cooperation is essential for combatting IUU fishing

- Builds consensus and enables the development of common norms and standards
- Provides a framework for sharing information and agreeing on action
- Sets out obligations of states and other actors
- Binding and non-binding
- Brief overview of some of the international processes which contribute to combatting IUU fishing

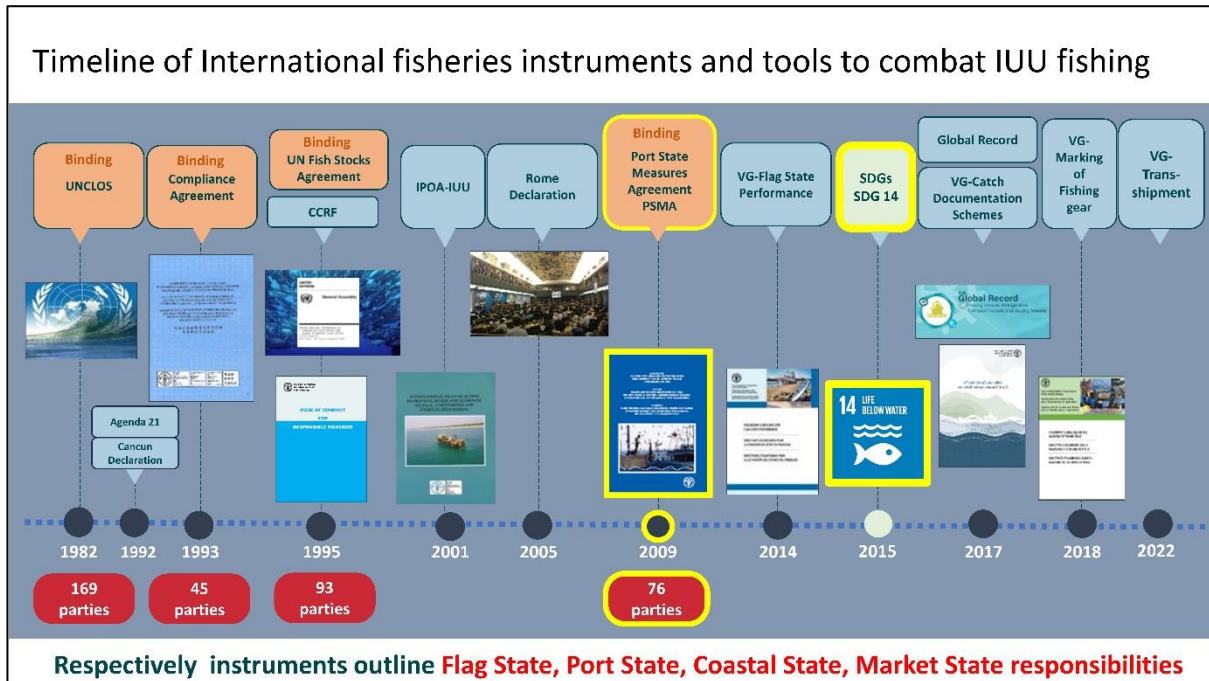


## Why cooperate?

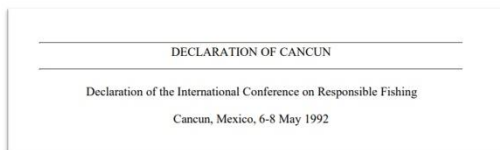
Cooperation on eliminating Illegal, Unreported, and Unregulated Fishing contributes directly to national commitment on Sustainable Development Goal 14







## 1992



### May 1992 – Cancun (Mexico)

- Conference on Responsible Fishing
- Discussion on the development of an international code of conduct on **responsible fishing** – address overcapacity, fishing in the **high seas** and other issues.
- Recommendations to be shared at the Rio Summit



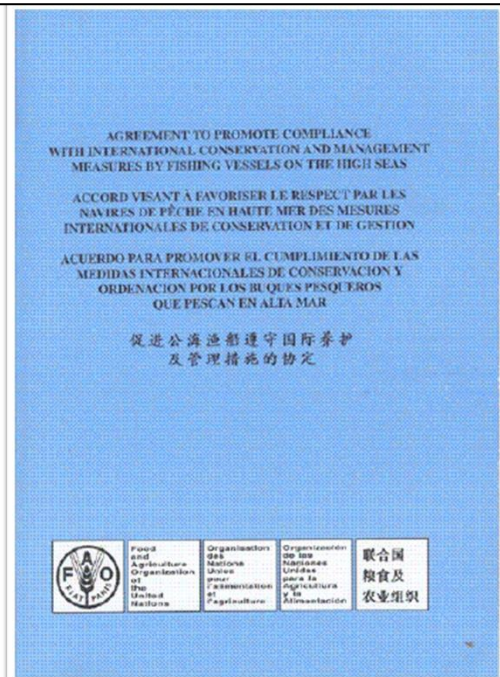
### June 1992 – Rio de Janeiro (Brazil)

#### The Earth Summit

- United Nations Conference on Environment and Development (UNCED) – *also known as the Rio Earth Summit* – some the outcomes of the Earth Summit include:
  - *Agenda 21* – Comprehensive Plan of Action to be taken globally, nationally and locally
    - **Agenda 21** – **Chapter 17** on Protection of the Oceans (includes protection, rational use and development of their living resources)
  - *The Convention on Biological Diversity (CBD)*
  - *The Framework Convention on Climate Change (UNFCCC)*

## 1993

- **The FAO Compliance Agreement**
- Negotiated in 1990s and adopted on **24 November 1993**, entering into force 24 April 2003.
- The main objectives are:
  - Promote responsible and sustainable fishing practices on the high seas
  - Provisions related to flag state responsibilities, port state measures, and control and monitoring of fishing activities in the high seas.
    - Exchange of information (name, flag, ownership, length, type, etc.)
- Main elements integrated into other mechanisms (PSMA, Global Record, etc.)

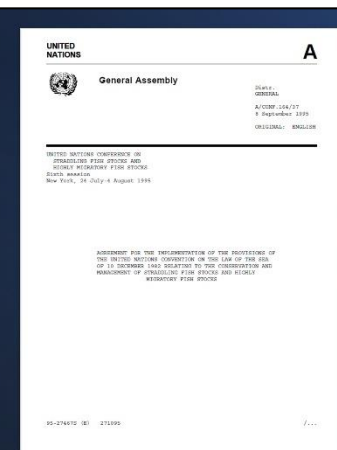


## 1995 - Straddling and Highly Migratory Fish Stocks Agreement

### General principles

- adopt measures to ensure long-term sustainability for Straddling and Highly Migratory fish stocks
  - based on the best scientific evidence available (MSY, etc.)
  - apply the precautionary approach
  - assess the impacts of fishing
  - adopt, conservation and management measures as required
  - minimize pollution, waste, discards, catch by lost or abandoned gear, bycatch, etc.
  - protect biodiversity in the marine environment;
  - prevent or eliminate overfishing and overcapacity
  - take into account the interests of artisanal and subsistence fishers;
  - data collection and sharing
  - promote and conduct scientific research
  - implement effective monitoring, control and surveillance.

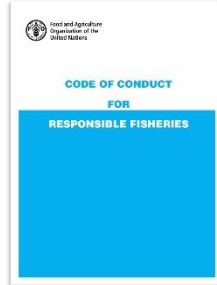
**Application of the precautionary approach**  
**Compatibility of conservation and management measures**



**Objective –**  
*“to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the UNCLOS”.*

## 1995 – The Code of Conduct for Responsible Fisheries (CCRF)

- Consistent with the previous instruments – but **voluntary**
- Recognition that fisheries, including aquaculture, provides a vital source of food, employment, recreation, trade and economic well-being.
- Sets out principles and international standards of behaviour for responsible practices (conservation, management and development)
- Recognition of the interests of all those concerned with the fishery sector.
- Considers the biological characteristics of the resources and their environment and the interests of consumers and other users.



### Main Sections

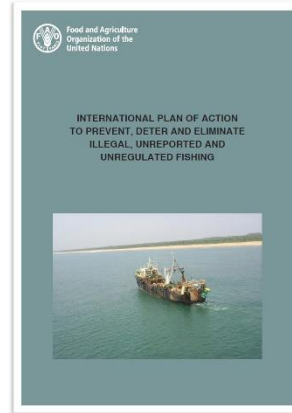
1. Introduction
2. Objectives
3. Scope and application
4. Fundamental principles
5. General principles
6. Fisheries management
7. Fishing operations
8. Aquaculture development
9. Integration of fisheries into coastal area management
10. Post-harvest practices and trade
11. Fisheries research
12. Human element
13. International cooperation and coordination
14. Implementation, monitoring, and evaluation
15. Review and revision

Global estimates indicate that **IUU fishing** is responsible for annual catches of up to **26 million tonnes**, with a value of up to **US\$ 23 billion**.

## 2001 IPOA-IUU

### IPOA-IUU

- Global initiative developed by FAO to address the problem of Illegal, Unreported and Unregulated fishing.
- Strategies for preventing, deterring, and eliminating IUU fishing, including:
  - improving monitoring, control, and surveillance of fishing activities,
  - strengthening legal frameworks and enforcement mechanisms, and
  - promoting sustainable fishing practices.



## Definitions of IUU Fishing

**Illegal, Unreported and Unregulated (IUU) fishing is a broad term which includes:**



Fishing and fishing-related activities conducted in contravention of national, regional and international laws.



Non-reporting, misreporting or under-reporting of information on fishing operations and their catches.



Fishing by "Stateless" vessels.



Fishing in convention areas of Regional Fisheries Management Organizations by non-party vessels.



Fishing activities which are not regulated by States and cannot be easily monitored and accounted for.

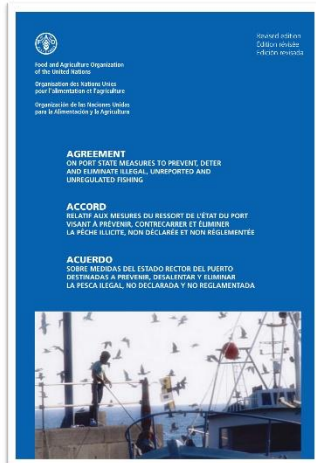


## 2005 – The Rome Declaration on IUU Fishing

- The Meeting addressed Combating Illegal, Unreported and Unregulated Fishing (IUU) and the Promotion of Monitoring, Control and Surveillance as Key Components in the Sustainable Development of Fisheries.
- Call to:
  - Address economic incentives and drivers leading to IUU fishing and overcapacity
  - Prevent transfer of IUU fishing problems from one area to another when trying to address them .
  - Develop a comprehensive global record of fishing vessels within FAO,
  - Work within RFMOs and share (as appropriate) VMS and observer data,
  - Strengthen MCS schemes



## 2009 – Port State Measures Agreement

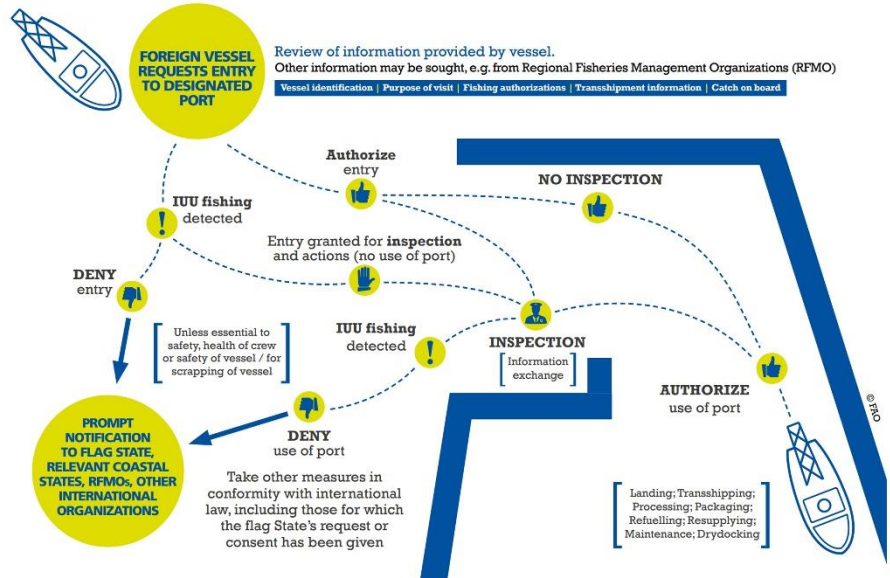


Adoption of effective port State measures as a means to ensure the long-term conservation and sustainable use of living marine resources.

Applied to:

- foreign vessels when seeking entry to port entry or when they are in the port –
- Exceptions include:
  - **artisanal fishing vessels** of neighboring countries, provided the port State and the flag state cooperate to ensure not engaged in IUU fishing or related activities.
  - **containers vessels** that are not carrying fish, and if they are, it has been previously landed, and no suspecting they are involved in IUU fishing or related activities.

# How do Port State Measures work?



# 2015 – SDGs and SDG 14



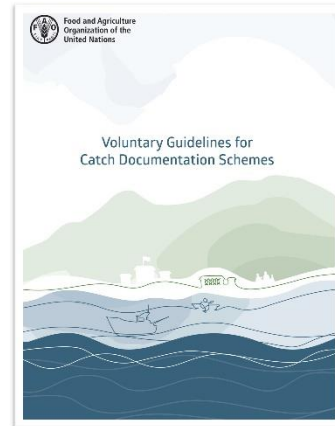
<b>TARGET 14-1</b>  REDUCE MARINE POLLUTION	<b>TARGET 14-2</b>  PROTECT AND RESTORE ECOSYSTEMS	<b>TARGET 14-3</b>  REDUCE OCEAN ACIDIFICATION	<b>TARGET 14-4</b>  SUSTAINABLE FISHING	<b>TARGET 14-5</b>  CONSERVE COASTAL AND MARINE AREAS
<b>TARGET 14-6</b>  END SUBSIDIES CONTRIBUTING TO OVERFISHING	<b>TARGET 14-7</b>  INCREASE THE ECONOMIC BENEFITS FROM SUSTAINABLE USE OF MARINE RESOURCES	<b>TARGET 14-A</b>  INCREASE SCIENTIFIC KNOWLEDGE, RESEARCH AND TECHNOLOGY FOR OCEAN HEALTH	<b>TARGET 14-B</b>  SUPPORT SMALL SCALE FISHERS	<b>TARGET 14-C</b>  IMPLEMENT AND ENFORCE INTERNATIONAL SEA LAW

## 2017



- **Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels**

- Combat IUU fishing by gathering and sharing certified information about the world's fleet of fishing (and related) vessels.
- It closes the global information gap on vessels involved in IUU fishing
- Promotes **transparency, traceability and dissemination** of on the global fishing fleet and its operations

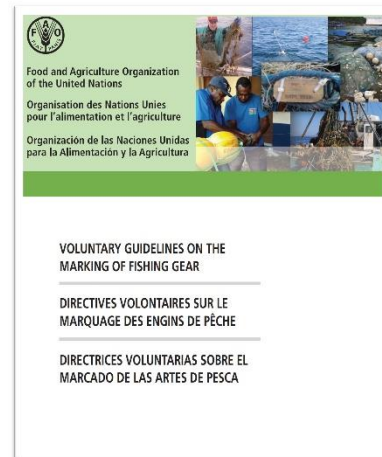


VG on **Catch Documentation Schemes**


- System to help determine throughout the supply chain whether **fish originate** from “legal and sustainable” catches

## 2018 - VG on Marking of Fishing Gear

- Address issues related to **abandoned, lost or otherwise discarded fishing gear (ALDFG)** and facilitating the identification and recovery of such gear.
- Assist fisheries management and help address IUU fishing activities
- Address the purpose and principles, the scope of application and the **implementation of a gear marking system** and its associated components, including reporting, recovery and disposal of ALDFG or unwanted fishing gear and commercial traceability of fishing gear.
- Special considerations for developing states and SSF – focus on capacity development and using risk-based approach to implementing gear marking .



## 2022 – VG for Transshipment







Food and Agriculture Organization of the United Nations  
Organisation des Nations Unies pour l'alimentation et l'agriculture  
Organización de las Naciones Unidas para la Alimentación y la Agricultura

VOLUNTARY GUIDELINES FOR  
TRANSSHIPMENT

DIRECTIVES VOLONTAIRES RELATIVES  
AU TRANSBORDEMENT

DIRECTRICES VOLUNTARIAS PARA  
LOS TRANSBORDOS

**In short:**

-  The Voluntary Guidelines provide minimum international standards for transshipment operations;
-  They establish definitions, processes and responsibilities for transshipment activities to be regulated, monitored, and controlled;
-  They consider specific needs of developing States in view of transshipment activities;
-  States and RFMO/As can transpose the guidelines into national and regional regulations.

## Voluntary Instruments

- Global Record - <https://www.fao.org/global-record/en/>
- VG on Catch Documentation Schemes - <https://www.fao.org/iuu-fishing/resources/detail/en/c/1132200/>
- VG on Marking of Fishing Gear - <https://www.fao.org/responsible-fishing/mark-of-fishing-gear/voluntary-guidelines-marking-fishing-gear/en/>
- VG for Transshipment - <https://www.fao.org/iuu-fishing/resources/detail/en/c/1638082/>





Thank you!!

[Angela.Lentisco@fao.org](mailto:Angela.Lentisco@fao.org)



**UNITED NATIONS CONVENTION  
ON THE LAW OF THE SEA 1982 ON  
FISHERIES PERSPECTIVE**

*"Enforcement of International and Domestic Fisheries  
Laws- Case Studies"*

6 – 9 NOVEMBER 2023  
SEAFDEC – TD  
THAILAND

PRESENTED BY : GANESAN VETHIAH  
VETTED MCS EXPERT

## OBJECTIVES OF THE PRESENTATION

- ▶ Basic understanding of Public International Law in relation to fisheries law.
- ▶ Basic understanding on the application of Public International Law through Domestic Laws; and
- ▶ To provide the importance of local and global judicial decisions in the enforcement of fisheries law.

## QUOTES FOR THE DAY

- ▶ **“Law Without Force is impotent” – Pascal**
  - Dormant domestic law and poor political will
  
- ▶ **“Tragedy of the commons” – Garrett Hardin**
  - High Seas – “Open access”
  - Co-operative action is the only solution.

## PUBLIC INTERNATIONAL LAW (PIL) AND PRIVATE INTERNATIONAL LAW (CL)

- ▶ Private International Law or Conflict of laws (CL).
  - “Foreign elements”- merely part of domestic law. Breach of contract bet’ persons.
  
- ▶ Public International Law (PIL).
  - Law of nations, law among nations or inter-State law.
  - The law that governs States in their relationship with one another on Int’ plane; example public Int’ Orgs, NGOs, Transnational corporations and even private individuals are subjects of PIL.
  - ‘... a body of principles, customs and rules recognized as effectively binding obligation by sovereign States and such other entities as have been granted int’ personality”
  - *Pacta sunt servanda.*

## DISTINCTION BETWEEN INT' LAW AND NATIONAL LEGAL SYSTEM

- ▶ States have three (3) sovereign functions as law making (legislative), law determination (courts and tribunals), and law enforcement (administrative, police, maritime enforcement agencies etc)
- ▶ Whereas in Int' law, legal regulations of international intercourse of States which consider themselves as "sovereign "and "equal".
  - UNGA- Not a world legislature.
  - ICJ - Consent of States to its jurisdiction. Art. 36(1) of SICJ
  - UNSC – Legally and politically limited. Veto power, Art. 27(3) of UNC. BUT,
- ▶ In practice, there is no controversy. It is constantly recognized by States as law. i.e. Montreal Conventions 1971- safety of civil aviation; LOSC 82, even USA accepts it as customary Int' law.

## DISTINCTION BETWEEN INT' LAW AND NATIONAL LEGAL SYSTEM

- ▶ States conduct everyday int' relation on the basis of Int' law.
- ▶ Modern national constitution usually contains references to Int' law. i.e Art. 74(1) of Malaysian Federal Constitution (MFC), Art. 25 of German constitution and Art.178 of The Thailand Constitution 2017.



## INTRODUCTION OF INTERNATIONAL LAW INTO DOMESTIC LAW

- ▶ Sources of Int' Law, Art. 38 (1) of ICJ 1945. Int' conventions, Int' customs and general principles Law. However, decision of the Int' Court has no binding force, except between parties consented.
- ▶ Two methods/practices by States (Monism & Dualism)
  - **Doctrine of Transformation** – Int' law through legislative process, parliament. i.e. Malaysian EEZ Act 1984, Malaysia- Thailand JDA Act 1997 (bilateral treaty) and The Philippines Archipelagic Sea Lane Act 2022.
  - Case **Public Prosecutor v Narongne Sookpavit & Ors** [1987] 2MLJ (100). Claim of innocent passage under customary Int' law.
  - **Doctrine of incorporation** – direct application of Int' law into domestic law. The US Consti', Art VI, cl2.

## STATE JURISDICTION

- ▶ Jurisdiction is a part of State sovereignty to:
  - Prescribe rules (prescriptive jurisdiction)/ legislative power.
  - Power to enforce (enforcement jurisdiction) (Executive and judicial power of enforcement)
- ▶ Five general principles of criminal jurisdiction
  - **Territorial Principle:** determining jurisdiction by reference to the place where the offence was committed. Exercise jurisdiction within State's territory over person, property, action or events. In the case of **SS. Cristina (1938)** (State owned ship- Spain).
  - **Subjective Territorial Principle:** Occur within the State BUT completes in other territory.
  - **Objective Territorial Principle:** Starts in other States BUT completes in its territory.

## STATE JURISDICTION

- **Nationality Principle:** determining jurisdiction by reference to the nationality of the person committing the offence.
- On its nationals committing crime in any part of the world BUT action only upon returning to the State of Nationality. i.e. Flag State responsibility
- **Protective Principle:** determining jurisdiction by reference to the national interest injured by the offence. Also new "effect doctrine"- US anti-trust legislations (anti-competition laws). How about, US "Maritime Security and Fisheries Enforcement Act" or "Maritime Safe Act"
- Act committed against the security of one State by whoever and wherever. i.e Art.33 of LOSC 82. To prevent infringement and to punish infringement. UK Hovering Act in the 18<sup>th</sup> century. i.e, *Araunah (UK v Russia) International Arbitration 1888*

## STATE JURISDICTION

- **Universality Principle:** determining jurisdiction by reference to the custody of the person committing the offence and;
- Concept of "International Crime"
- Piracy- Art. 101 of LOSC 82. *Piracy Jure Gentium, In Re (1934) AC 586.*
- **Passive Personality Principle:** determining jurisdiction by reference to the nationality of the person injured by the offence. Active Nationality Principle.
- States may try and punish foreigners for crimes committed abroad affecting its nationals.US Foreign Relation Law, on terrorism and other serious crimes.

## THE MARITIME ZONES

- ▶ **Baseline-** Art.5 and 7 of LOSC 82. *Anglo-Norwegian Fisheries Case (UK v Norway)* ICJ 1951, State practice due to indented coast, persistent objector (1869-1933) and economic interest. Appurtenant to the land.
- ▶ **Territorial Sea (territorial waters???)** Art. 3 LOSC 82. Adjoining the coast. League of Nations on Conference for the codification of Int' Law 1930. However, eventually many coastal States acted as subsequent objectors. From 3Nm to 12 Nm
- ▶ **Contiguous Zone-** Art. 33 LOSC 82. State practice. i.e 18<sup>th</sup> century UK Hovering Act and US Customs Water of 1797, 12Nm from the shore. *I'm Alone case, (Canada v United States) (1935)29 AJIL 326*

## THE MARITIME ZONES

- ▶ **Exclusive Economic Zone-** Art. 55 and 57 of LOSC 82. Concept mooted in 1945 and started crystallizing in 1976. However, its origin is from EFZ was recognised by ICJ in *Fisheries Jurisdiction cases (UK v Iceland) ICJ 1973-* Issues of State Practice, must be common. "Cod War". The proposed extension of Iceland's fisheries jurisdiction from 16Nm to 50Nm is breach of an agreement between them- **Exchange of Notes in 1961**. Iceland's argument against the UK not to extend the fisheries jurisdiction was no longer binding due to a fundamental change of circumstances since that agreement.

## THE MARITIME ZONES

- ▶ EEZ has to be legally established by coastal State. Issues of extended jurisdiction and creeping jurisdiction.
- ▶ **Safety Zones:** Art. 60(2), 60(5) and 80 of LOSC 82. Coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regards to customs, fiscal, health, safety and immigration laws and regulations.....shall not exceed a distance of 500 meters around them. Fishing allowed???
- ▶ *The "Arctic Sunrise" case (Netherlands v Russia)2013 ITLOS (provisional measures) and PCA,*
- ▶ **High seas:** Art.86 LOSC 82 – ABNJ.... All parts of the sea that are not included in the exclusive EZ, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. BBNJ, conservation of marine BioD, sustainable use and promoting ocean governance.

## ENFORCEMENT OF LAWS AND REGULATIONS OF COASTAL STATE, ART. 73 OF LOSC 82

- ▶ Fisheries Enforcement in Zones under Sovereignty
  - International law does not regulate fisheries enforcement in internal waters, territorial sea and archipelagic waters. They are subject to full sovereignty of coastal State.
  - Int' law only regulates prescriptive and enforcement powers in EEZ.
  - Implication for domestic fisheries legislation
- ▶ **Article 73(1):** The coastal State **may**, in the exercise of its **sovereign rights** to explore, exploit, conserve and manage the **living resources** in the **EEZ**, take such measures, including boarding, inspection, arrest and judicial proceeding, as may be necessary to **ensure compliance with the laws** and regulations adopted by it **in conformity with this Convention**.



## ENFORCEMENT OF LAWS AND REGULATIONS OF COASTAL STATE, ART. 73 OF LOSC 82

- The question of non-living resources.
- **Art.77(1)**- continental shelf, **natural resources** include living organism, sedentary species.
- However, Sec. 15(1) (a) (b) of Malaysia Fisheries Act 1983 (MFA 85) includes Fishing and Techno-economic survey or survey of any fishery.
- Sec.54 of Malaysian Exclusive Economic Zone Act 1984 (MEEZA 84) states ...no person shall in the EEZ or continental shelf, explore or exploit any natural resources whether living or non-living etc
- Enforcement powers similar to **Art.73(1)** are in Sec. 24 MEEZA 84 and Sec. 46,47 etc in MFA 85

## ENFORCEMENT OF LAWS AND REGULATIONS OF COASTAL STATE, ART. 73 OF LOSC 82

- ▶ **Art. 73(2):** Arrested vessels and their crews **shall be promptly released** upon posting of **reasonable bond or other security. To be read with Art.292**
- The fundamental question of **“What is reasonable bond”**. The Convention is silent.
- Sec.50 of MFA 85 states aggregate value, by the DG of Fisheries Malaysia.
- Whereas Sec. 32(1) of MEEZ Act 84 states **“bond or other security to the satisfaction of the authorised officer or the court”**. Sec.413(2) of Malaysian Criminal Procedure Code (MCPC)

## ENFORCEMENT OF LAWS AND REGULATIONS OF COASTAL STATE, ART. 73 OF LOSC 82

- ▶ **Art. 73(3):** Coastal State penalties for **violation of fisheries laws** and regulation in the EEZ **may not include imprisonment**, in the absence of agreement to the contrary by the States concerned, or any other form of **corporal punishment**
  - Whether imprisonment in default /detention while on remand/detention during trial/ constitutes a violation **of Art. 73**
  - Sec. 25(a) of MFA 85- only a fine for FFV master and crews. In default, imprisonment Sec. 283(1)(c)(iv) MCPC.
  - Sec. 47D of MFA 85 – Remand
  - Sec. 26 MEEZA 84 – Without delay to produce to the court; no long custody; journey from the location of detention not included.
  - Sec. 27 of MEEZA 84- Nearest port

## ENFORCEMENT OF LAWS AND REGULATIONS OF COASTAL STATE, ART. 73 OF LOSC 82

- ▶ **Art.73(4):** In cases of arrest or detention of foreign vessels, the coastal State **shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently**
  - Sec. 32(2) of MEEZA 84 “.....if the article, vessel is foreign owned, the authorised officer SHALL cause the diplomatic representative in Malaysia of the flag State of the vessel concerned ..... through the Ministry of Foreign Affairs”.

## Landmark Cases at International and Domestic Courts

### MV SAIGA case (St. Vincent and Grenadines V Guinea) (1999) ITLOS

MV. Saiga was an oil tanker flying the flag of St. V & G. On the 27<sup>th</sup> Oct 1997, it had supplied fuel oil, water and rations to 3 fishing vessels which were licensed to fish in Guinea EEZ at a location about 22 Nm from the island of Alcatraz which belongs to Guinea. The next day Guinea Customs boats chased (hot pursuit???) to detain the vessel and crews. 2 seriously injured. Hence the legal action by St. V & G against Guinea @ ITLOS.



## Landmark Cases at International and Domestic Courts

The case involves a number of pertinent issues related to LOSC 82 and customary international law.

- Prompt release of vessels and crews under Art. 292 of LOSC 82;
- Genuine link/flag State.
- Exhaustion of local remedies.
- Application of customs & excise laws and freedom of navigation in EEZ.
- The rights of hot pursuit.
- Use of force
- Compensation.



## USE OF FORCE



### **I'm Alone (Canada v US) 1935**

- ▶ She was 10 Nm off the Louisiana coast (according to USCG). Ordered to stop by USCG for smuggling liquor/rum through shore-based speedboats. Hot pursuit covering 200Nm. Bad weather, failed to stop, fired upon, one crew died due to drowning, I'm Alone sunk with the cargo.
- ▶ Territorial sea 3Nm but US Customs jurisdiction 12 Nm , contiguous zone.
- ▶ Speed boats involved to smuggle to the US shores. Doctrine of constructive presence.
- ▶ Excessive force, intentional sinking, owner USA citizen, compensation USD50k to crews and apology to Canada.

## USE OF FORCE



### **Red Crusader (1962) 35 ILR 485 (UK v Denmark)**

- ▶ Red Crusader was a Scottish trawler detained for fishing close to the Faroes Island. The skipper locked up the boarding party and escaped to Scotland. Without warning, fired upon with solid shots. Danish patrol vessel exceeded legitimate use of heavy weapon on two counts. ( i.) Firing without warning with solid shots; (ii)Creating danger to human life on board the RC without proved necessity.
- ▶ Similarly, in **MV Saiga** case ITLOS adopted **Red Crusader** and **I'm Alone** cases to conclude the use of force was unjustified,
  - Consideration to humanity approach.
  - Internationally recognized SOP. Radio call, Signals, pennants (fisheries patrol, stop, will fire etc), logbooks etc
  - **Art.300**, Good faith and abuse of rights.
  - **Art.304**, Responsibilities and liability for damage.



## USE OF FORCE



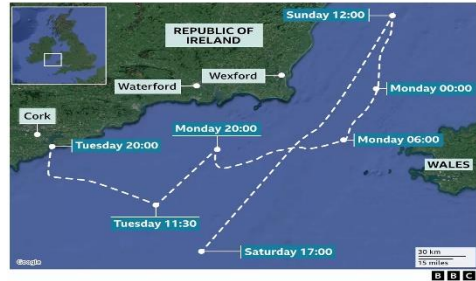
### KM SEMESTA PAHALA SAKTI IV. Irwan Bin Abdullah v PP [2002] 2 MLJ 577 HC (Alor Setar)

- 1<sup>st</sup> Feb 2001 around 2300H, Malaysian Naval vessel spotted her 54 Nm, west of Langkawi Island with high intensity lights. Identified itself through VHF and morse signal with no response.
- Upon reaching, loud heater, refused to allow boarding (hostile reception). Hot pursuit. Damage to the port side of patrol vessel. After one hour of hot pursuit, tracer with solid shots were fired across the bow of Pahala Sakti. Some shots were fired on the superstructure of the vessel. The skipper was badly injured due to bullet wounds and died while taken to Langkawi for medical treatment. Excessive force??
- Internal enquiry and the CO reassigned to very light duty.
- Vessel released on financial bond, Sec 50 of MFA 85. The skipper and 38 crews offered a bail of RM10K and RM5K respectively but could not afford. Question of reasonable??
- Found guilty of attempted fishing, fined RM200K and RM10K. In default 2 months imprisonment.
- Issue of remand-13 months. To trade off with the sentence. The Judge said, *"I am inclined to agree with the learned DPP that taking into consideration the interest of the public and for the protection of national resources...."*

## HOT PURSUIT

- Doctrine of constructive presence: Simple and extended.
- Art. 111(1): The flag ship or one of its boats.
- Art. 111(4): The flag ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship.
- ▶ **Araunah (1888) Moore, International Arbitration, 824 (UK v Russia)**
- Russia seized a Canadian vessel outside the territorial sea because its crew were using canoes for illegal sealing within the Russian TS. UK admitted responsibility.
- ▶ **R v Millis & Ors (1995) 44 ICLQ @ UK**
- ▶ The *Poseidon* was registered in St. V & G. The *Delvan* was a British registered fishing vessel. The *Poseidon* transferred to the *Delvan* a cargo of cannabis valued at 24 million pound on the high seas, some 100 miles west of UK, to be landed in UK shore. *HMS Avenger*, constant surveillance by radar tracking. Upon detaining *Delvan*, directed to detain *Poseidon*. Issue high sea, flag State, all crews non-UK citizen and breach of Int' law.

## HOT PURSUIT



► **MV Matthew (September 2023)**

- *MV Matthew*, a Panama flagged cargo vessel, planned to unload 2.2 tonnes of pure cocaine with a street value of nearly 150 million Euro through UK registered fishing vessel, *Castlemore* within UK maritime waters. Highly coordinated operation by many countries. *MV Matthew* tried to escape but intercepted by the Irish Navy.

## HOT PURSUIT

► **Malaysian cases involving PRC Fishing vessels.**



## HOT PURSUIT

- ▶ Have all the 6 requirements of hot pursuit has been fulfilled by the above cases?
  - Have good reason to believe, violation of law, in any of its maritime zones.
  - Mother ship and crafts working as a team.
  - Amble warnings, visual, auditory etc before hot pursuit.
  - Continuous and uninterrupted.
  - Only by government vessels and clearly marked.
  - Ceases once the vessel enters other coastal States maritime zones. However, international cooperation in surveillance and enforcement can overcome that.
  - BUT Art. 111(8)- compensation for any loss or damages.

## PROMPT RELEASE, EXHAUSTION OF LOCAL REMEDIES AND GENUINE LINK

- ▶ (pictures of FV Camouco, Tomimaru and Artic Sunrise)



## PROMPT RELEASE, EXHAUSTION OF LOCAL REMEDIES AND GENUINE LINK

- Art.73(2) ->Art. 292-10 days -> Art.287, by or on behalf of flag State. In the case of **MV Saiga**, as it was unregistered between 12<sup>th</sup> Sep 1997 and 28<sup>th</sup> Nov 1997, the question of genuine-link. Detention was on 28<sup>th</sup> Oct 1997.
- Safeguard the interest of shipping nations.
- “Reasonable Bond” as decided by The **Camouco** case (Panama v France) (2000) ITLOS.
- i) the gravity of the alleged offence.
- ii) the penalties imposed or imposable under the laws of the detaining State.
- iii) the value of the detained vessel and the cargo seized.
- iv) the amount of the bond imposed by the detaining State and its form.
- Based on the above factors, The Tribunal decided, 20 million FF not reasonable and reduced it to 8 million FF. (value of the vessel not a determining factor)
- As in the case of The **Volga (Russia V Australia)**, installation of VMS and other monitoring system at a cost of AU1 million, not reasonable. Also refer to **Olbers v Commonwealth of Australia (#4) (2004) FCA 229**.



## PROMPT RELEASE, EXHAUSTION OF LOCAL REMEDIES AND GENUINE LINK

- The case of **Tomimaru** (Japan v Russia) (2007) ITLOS
- Factory trawler, licensed to fish in Russian EEZ. Caught an excess of 5.5 tonnes of fish against the allowable limit. A simple case of breach of license condition.
- First instant accused pleaded guilty. Vessel confiscated. Issue, belongs to whom? What are the legal interpretations of arrest, detain, seize, confiscate and forfeiture.
- Confusing interpretation on release on bond at the Russian domestic court and local authority. Damage to environment was included.
- Question of exhaustion of local remedy. Act immediately after the 10 days period for prompt release.
- The Tribunal’s considerations of Humanity, “A decision to confiscate eliminates the provisional character of the detention of the vessel rendering the procedure for its prompt release without object”.
- The Supreme court of Russia upheld the decision of municipal court to confiscate **Tomimaru**, just before the submission of the case by the Japanese representatives. Case, without object.
- Moral of the story. Study your opponent well and prepare the case well.



## WHAT CONSTITUTES A FISHING OFFENCE

- ▶ UNCLOS 1982 has no definition on “fishing” and “fishing vessel”. Only mentions “violations of fisheries laws and regulation” and “engage in fishing on the high seas.”
- ▶ While FFV on innocent passage, constitute attempted fishing? Sec. 16 of MFA 85, France, Maldives, Australia etc
- ▶ **1995 UN Fish stock agreement: (the latest amendment?)**
- ▶ **1993 FAO Compliance Agreement:** defines “fishing vessel” means any vessel used or intended for the purpose of the commercial exploitation of living marine resources, including mother ships and any other vessels **directly engaged** in such operation. Issue. Does bunkering constitute fishing? The Tribunal in MV Saiga case, silent on this.

## WHAT CONSTITUTES A FISHING OFFENCE

- ▶ **2008 FAO Port State Measures Agreement (PSMA):** Provides detailed interpretations on “fish”, “fishing”, “fishing related activities” and “vessel”.
- ▶ **Sec.15(2) of MFA 85:** No foreign fishing vessel SHALL load or unload any fish, fuel or supplies or tranship any fish in MFW without the written approval of the DG.
- ▶ “fishing vessel” means...(b)....any activity related to fishing”.

## WHAT CONSTITUTES A FISHING OFFENCE

- ▶ **MV CHOR SANGPAIBOON**, Thai registered cargo vessel involved in illegal transshipment of fish and supplies off Miri, Sarawak. (pictures)



## OTHER EMERGING ENFORCEMENT MEASURES TO COMBAT IUU FISHING

- ▶ Asia's losses due to IUU fishing, estimated value at USD6.7 billion annually.
- ▶ Anti-money laundering laws an effective way to curb IUU fishing by the forfeiture of illicit gains.
- ▶ Malaysian AMLA identifies 5 "serious offence" under MFA 85, Sec. 8, 11,15,16 and 20.
- ▶ Fast track deterrence, through Intelligent Based Investigation and Deferred Prosecution Agreement and balance of probabilities.

## OTHER EMERGING ENFORCEMENT MEASURES TO COMBAT IUU FISHING

► Cases;

1. The case of **Tran Thi Mai @ Dato' Maimunah**, involved in offering bribes to MMEA officers and to an undercover MACC officer to release detained Vietnamese fishing vessels. Forfeiture of money and properties.
2. The case of **FV Perlon and Asia Link**, a IUU fishing blacklisted Nigerian flagged fishing vessel for illegal Patagonia toothfish and transshipment in Malaysian Fisheries waters. Charged under Sec. 15(2) and Sec.20 MFA 85, pleaded guilty. Vessels released. Should have invoked AMLA law to forfeit the vessel.

## OTHER EMERGING ENFORCEMENT MEASURES TO COMBAT IUU FISHING

► Pictures of FV Perlon and Asia Link.





## APPLICATION OF ADVANCED TECHNOLOGY TO COMBAT IUU FISHING

1. Canada to provide satellite services on “**Dark Vessel Detection Program**” to the Philippines. Current issues, VMS for commercial fishing vessels not to be enforced. Implication?
2. Indonesia will launch 20 Nano satellites in 2024 for maritime surveillance and enforcement.
3. Main issue, expert evidence in the court of law. As in the **Case of FV Independence-Lobster Inc. Lawrence M. Yacobian v NOAA and Ministry of Agriculture and Fisheries v Wallance (1998) Auckland NZ.**

THANK YOU



# Biodiversity Beyond National Jurisdiction (BBNJ) Agreement and Its implications in Fisheries Management

Ichiro NOMURA

Special Adviser to the Minister of Agriculture, Forestry and Fisheries of Japan for International Affairs

9 November 2023

The Regional Training Course on the UNCLOS 1982  
In Fisheries Perspective, SEAFDEC

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## Contents of Presentation

- I. Background for the negotiation
- II. Issues relating to fisheries
- III. Position/Stance of active players
- IV. Explanation on key provisions relating to fisheries
- V. Mechanism to establish Area-Based Management Tools (ABMT)
- VI. Implications in fisheries
- VII. Prospect for BBNJ Agreement

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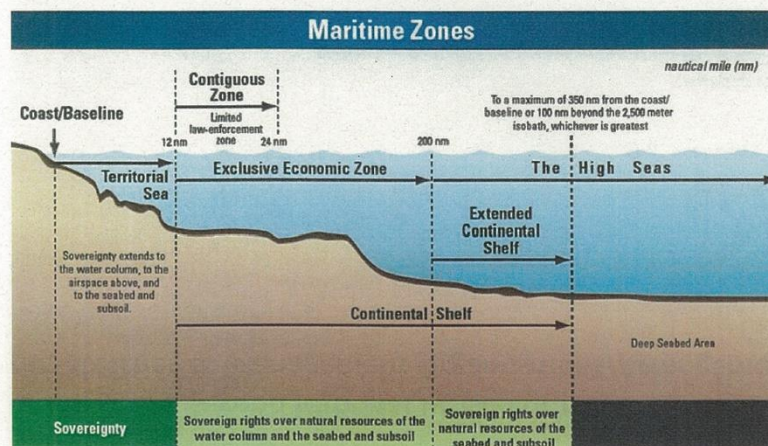
## I. Background for the negotiation

- Convention on Biological Diversity (CBD, Adopted in 1992 and entered into force in 1993)
  - ⇒ Conservation and Sustainable Use of Biodiversity **within National Jurisdiction** (Land, Territorial Sea, Exclusive Economic Zone)
- Need to address Conservation and Sustainable Use of Marine Diversity **beyond National Jurisdiction** (High Seas and the Area (deep seabed as defined in UNCLOS))

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Food and Agriculture Organization  
of the United Nations



UNCLOS Maritime Zones.

Source: NOAA Office of Ocean Exploration and Research

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## Four Main Themes for the Negotiation

- 01 Marine Genetic Resources, including the Fair and Equitable Sharing of Benefits (Part II)
- 02 Measures such as Area-Based Management Tools (ABMT), including Marine Protected Areas (MPA) (Part III)
- 03 Environmental Impact Assessment (Part IV)
- 04 Capacity-Building and the Transfer of Marine Technology (Part V)



## **II. Issues relating to fisheries (ABMT Part except for 1)**

1. Marine Genetic Resources and Fisheries Resources
2. Definition of ABMT and MPA
3. Precautionary Principle vs Precautionary Approach
4. Power/Authority of Conference of the Parties (CoP) vs Competence of Relevant (existing) Legal Instruments and Frameworks and Relevant Global, Regional, Subregional and Sectoral bodies (IFB including RFMO)
5. Decision-making
6. Opt-out clause (the Right to object)

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## **III. Position/Stance of Active Players (for ABMT Part)**

- Negotiation Group
  - (1) G77 + China : Not very active except China
    - China : Very firm in protecting IFB scheme and the interest of long-distance fishing fleets
    - Exclusion of disputed sea areas from the ABMT establishment
  - (2) African Group : Not very active
  - (3) South Pacific Islands Group (PSIDS) :
    - Support strong power/authority of CoP
    - Emergency Measures, Not undermine the coastal States' conservation measures
  - (4) Caribbean Coastal States' Group (CARICOM)
    - Support strong power /authority of CoP, Not support opt-out clause
  - (5) Latin American Group (CLAM)
    - Support strong power/authority of CoP, except Nicaragua supporting current IFB scheme

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- (6) Active players from developed nations
- EU, UK : Support strong power/authority of CoP  
MPA should not include “sustainable use”.  
Recognition by CoP of ABMT established by IFB
  - Norway, Iceland :  
Striking the balance between the power/authority of CoP and IFB, Need for the Opt-out clause
  - Australia, NZ :  
Similar to PSIDS's position
  - Japan, US : Not undermining the IFB  
Need for the Opt-out clause  
    { MPA : Japan supporting the inclusion of “sustainable use”, US not in favor. }
- (7) Independent players : Indonesia, Thailand, Philippines, Vietnam
- (8) Russia : Reject all new elements not included in the UNCLOS

## **IV. Explanation on key provisions relating to fisheries**

### **1. Marine Genetic Resources and Fisheries**

#### **Article 10 Application**

2. The provisions of this Part shall not apply to:

- (a) Fishing regulated under relevant international law and fishing-related activities; or
- (b) Fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, except where such fish or other living marine resources are regulated as utilization under this Part.

## 2. Definition of ABMT and MPA

### (1) ABMT

#### Article 1 : Use of Terms

1. “Area-based management tool” means a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular **conservation and sustainable use** objectives in accordance with this Agreement.

### (2) MPA

9. “Marine protected area” means a geographically defined marine area that is designated and managed to **achieve specific long-term biological diversity conservation objectives and may allow, where appropriate, sustainable use provided it is consistent with the conservation objectives.**

[ In the 5<sup>th</sup> session (August 2022), a small group discussion had crafted the following compromised text.

“Marine protected area” means a geographically defined marine area that is designated and managed to achieve specific [long-term biodiversity] conservation objectives and may include sustainable use which is consistent with the conservation objectives.

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## 3. Precautionary Principle vs Precautionary Approach

#### Article 19 (Proposals), paragraph 3

3. Proposals shall be formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, **taking into account the precautionary approach and an ecosystem approach.**

#### Declaration of the 1992 UN Conference on Environment and Development (UNCED)

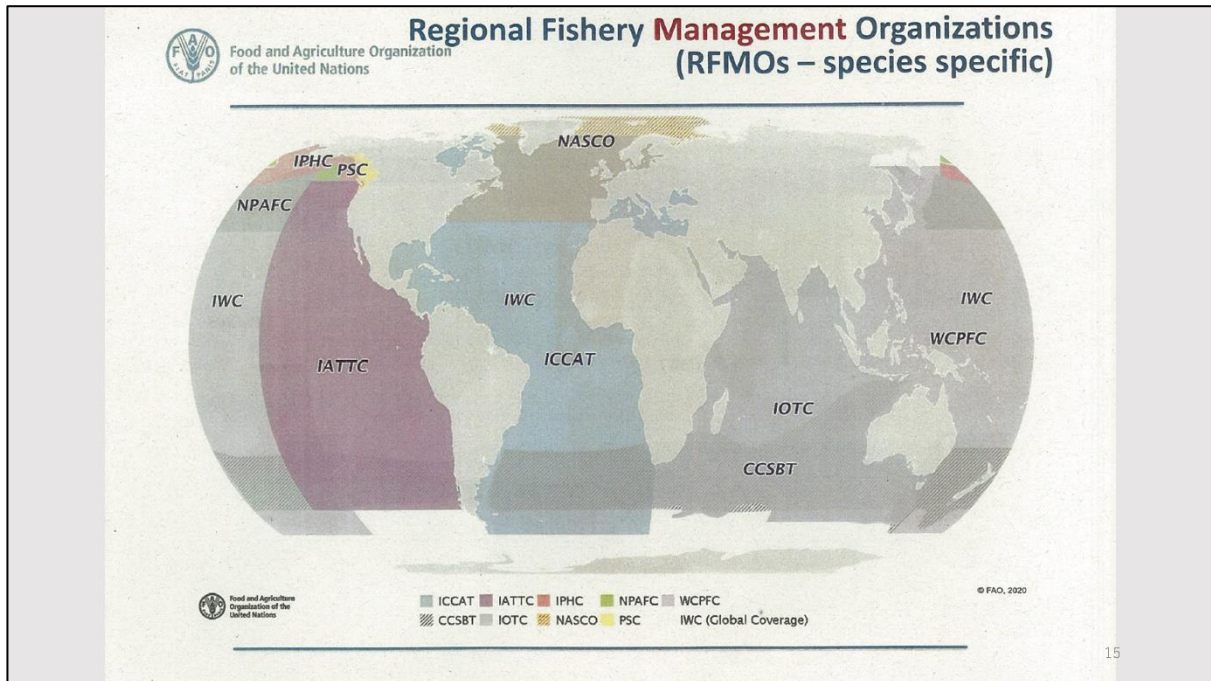
15. In order to protect the environment, the **precautionary approach** shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Chair’s suggestion : **“Application of precaution”**

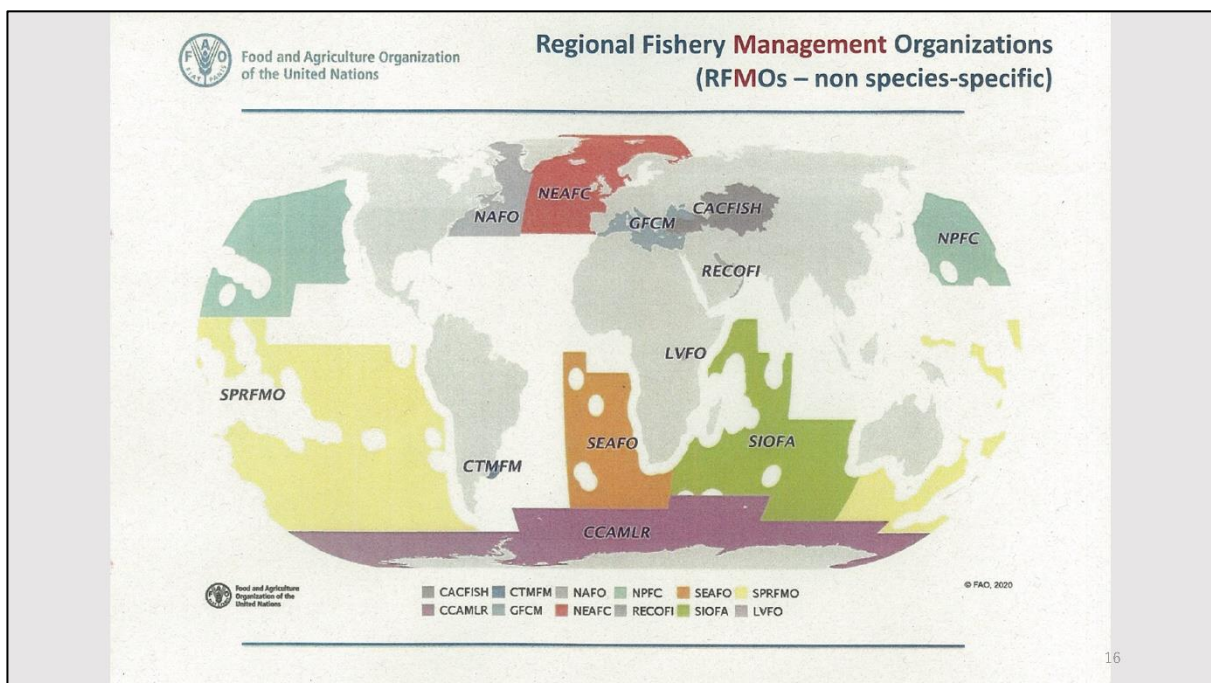
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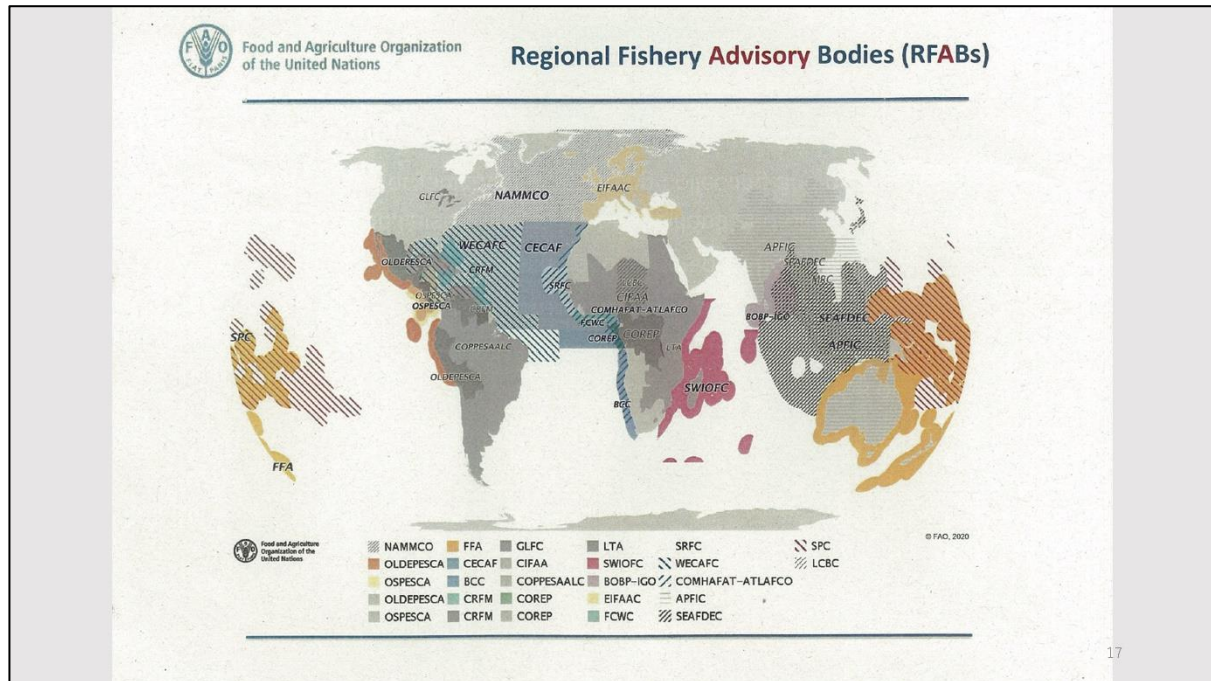


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## (1) Overall relationship between CoP and IFB (RFMO)

### Article 5

#### Relationship between this Agreement and the Convention and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

1. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention, including in respect of the exclusive economic zone and the continental shelf within and beyond 200 nautical miles.
2. This Agreement shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.

#### UN Resolution 72/249 of 24 December 2017 : To convene negotiation

6. Reaffirms that the work and results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea;
7. Recognizes that this process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies;

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## (2) Substantive provisions

### Article 22 Establishment of area-based management tools, including marine protected areas

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:
  - (a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;
  - (b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;
  - (c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.
2. In taking decisions under this article, the Conference of the Parties shall respect the competences of, and not undermine, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

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### (i) What CoP can do when and where there is a competent RFMO?

#### Group A

- When there is a competent RFMO, CoP can make recommendation for that RFMO to take action.
- When there is not a competent RFMO, CoP can make decision to establish ABMT and related measures.

#### Group B

- Even there is a competent RFMO, CoP shall also take decisions on measures complementary to those adopted under RFMO.

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## (ii) Norway's proposal (2022.08.24)

CoP can establish ABMT, not depending on whether there is a competent IBF or not, but whether the IBF has the competence for the subject matter, while avoiding the duplication of the measures by CoP and IBF.

1. The Conference of the Parties, taking into account the contributions and scientific inputs received during the consultation process established under this Part:
  - a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures on the basis of the final proposal and, in particular, the draft management plan,
  - b) May take decisions on measures complementary to those adopted under relevant legal instruments and, frameworks, and global, regional, subregional or sectoral instruments, frameworks and bodies, and
  - c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to those bodies and members thereof, to promote the adoption of relevant measures through such bodies, in accordance with their respective mandates.

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2. In taking decisions under this Article, the Conference of the Parties shall respect the competences of and not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.
3. The Conference of the Parties shall make arrangements for regular consultations to enhance cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, and members thereof, with regard to area-based management tools, including marine protected areas, as well as coordination with regard to related measures adopted under such instruments and frameworks and by such bodies.

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### (iii) Further discussion/negotiation on the Norway's proposal

#### • Paragraph 1 (b)

— “complementary to” ⇒ “compatible with”

— At the end, insert “in cooperation and coordination with IBF”.

Insertion of “where the proposed measures are not within the competence of IFB” or “the proposed measures fall outside of the geographical area of IFB competence or concern the matter outside of IFB competence” was not accepted.

#### • Paragraph 2

“Respect the competence of IFB” is maintained, but “not undermine IFB” is deleted because this element has been already addressed in Article 5, paragraph 2.

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### (iv) China's position

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific inputs received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:
  - (a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;
  - ~~[(b) May take decisions on measures [complementary to] [compatible with] those adopted under relevant legal instruments and frameworks and by relevant global, regional, subregional and sectoral bodies;]~~
  - (bc) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.

1 bis. Subject to paragraph 1 under this article, the Conference of the Parties may take decisions on measures compatible with those adopted under relevant legal instruments and frameworks by other global, regional, subregional and sectoral bodies, where the proposed measures are not within the competences of such bodies.

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## (v) Final outcome

### Article 22 Establishment of area-based management tools, including marine protected areas

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:
  - (a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;
  - (b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;
  - (c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.
2. In taking decisions under this article, the Conference of the Parties shall respect the competences of, and not undermine, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

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## 5. Decision-making (Article 23)

- Why special provisions in Part III (ABMT), not in general decision-making provision (Article 47, paragraph 5)?
- The CoP's decisions on ABMT can be expected to be made more often than those on other Parts. More detailed and practical provisions were considered necessary.
- Consensus-only option was discarded at an early stage of negotiation (except for China and Russia) in exchange for the need for opt-out clauses.

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### Article 23 Decision-making

1. As a general rule, the decisions and recommendations under this Part shall be taken by consensus.
2. If no consensus is reached, decisions and recommendations under this Part shall be taken by a three-fourths majority of the Parties present and voting, before which the Conference of the Parties shall decide, by a two-thirds majority of the Parties present and voting that all efforts to reach consensus have been exhausted.

### Article 47 Conference of the Parties

5. The Conference of the Parties shall make every effort to adopt decisions and recommendations by consensus. Except as otherwise provided in this Agreement, if all efforts to reach consensus have been exhausted, decisions and recommendations of the Conference of the Parties on questions of substance shall be adopted by a two-thirds majority of the Parties present and voting, and decisions on questions of procedure shall be adopted by a majority of the Parties present and voting.

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## 6. Opt-Out clause (Article 23, paragraphs 4-10)

### Only in ABMT Part

#### Rationale : Function as a safeguard

- Making it easier for more nations to join the BBNJ Agreement.
- Addressing the concern that a particular ABMT may be adopted by the 3/4 majority vote which cannot be acceptable for certain Parties.
- Most of the developed nations supported the mechanism of opt-out, (EU, Australia, etc. wanted to put some limitations on the exercise of the opt-out clause.)
- CARICOM against the opt-out clause and this remained the last negotiation subject in ABMT Part.

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#### Article 23 Decision-making

4. During the period of 120 days provided for in paragraph 3 above, any Party may, by notification in writing to the secretariat, make an objection with respect to a decision adopted under this Part, and that decision shall not be binding on that Party. An objection to a decision may be withdrawn at any time by written notification to the secretariat and, thereupon, the decision shall be binding for that Party 90 days following the date of the notification stating that the objection is withdrawn.

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5. A Party making an objection under paragraph 4 above shall provide to the secretariat, in writing, at the time of making its objection, the explanation of the grounds for its objection, which shall be based on one or more of the following grounds:
  - (a) The decision is inconsistent with this Agreement or the rights and duties of the objecting Party in accordance with the Convention;
  - (b) The decision unjustifiably discriminates in form or in fact against the objecting Party;
  - (c) The Party cannot practicably comply with the decision at the time of the objection after making all reasonable efforts to do so.
6. A Party making an objection under paragraph 4 above shall, to the extent practicable, adopt alternative measures or approaches that are equivalent in effect to the decision to which it has objected and shall not adopt measures nor take actions that would undermine the effectiveness of the decision to which it has objected unless such measures or actions are essential for the exercise of rights and duties of the objecting Party in accordance with the Convention.

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7. The objecting Party shall report to the next ordinary meeting of the Conference of the Parties following its notification under paragraph 4 above, and periodically thereafter, on its implementation of paragraph 6 above, to inform the monitoring and review under article 26.
8. An objection to a decision made in accordance with paragraph 4 above may only be renewed if the objecting Party considers it still necessary, every three years after the entry into force of the decision, by written notification to the secretariat. Such written notification shall include an explanation of the grounds of its initial objection.
9. If no notification of renewal pursuant to paragraph 8 above is received, the objection shall be considered automatically withdrawn and, thereupon, the decision shall be binding for that Party 120 days after that objection is automatically withdrawn. The secretariat shall notify the Party 60 days prior to the date on which the objection will be automatically withdrawn.
10. Decisions of the Conference of the Parties adopted under this Part, and objections to those decisions, shall be made publicly available by the secretariat and shall be transmitted to all States and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

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## V. Mechanism to establish ABMT

Proposal on ABMT submitted to the secretariat based on the Annex I criteria (Article 19)



The secretariat will make the proposal publicly available and transmit to the Scientific and Technical Body (STB) for a preliminary review. The outcome of the STB review and a revised proposal by the proponent will be made publicly available. (Article 20)



The secretariat will engage in consultations with various stakeholders. The proponent will revise the proposal which will be submitted to STB who will make recommendations to CoP.

(Article 21)

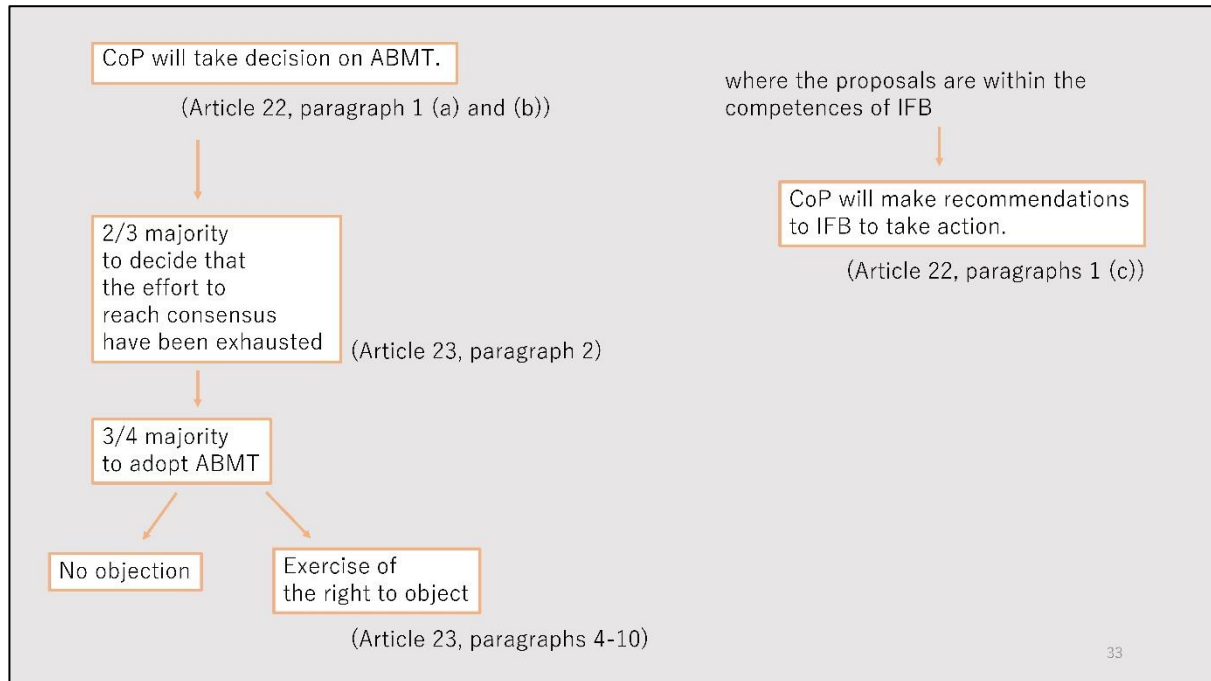


Deliberation of the proposal by CoP



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## VI. Implications in fisheries governance

1. If and when competent RFMOs are doing good jobs for the conservation of marine biodiversity, including the protection of Vulnerable Marine Ecosystem (VME), these RFMOs will be trusted and can continue to function well without interference from CoP.
2. If not, interference of CoP in the field of fisheries management, or at least the pressures toward that direction will become stronger and these RFMOs may well fail to function and lose their *raison d'être*.

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## VII. Prospect for BBNJ Agreement

(As of October 2023)

	Adopted	Entered into force (Required number of ratification, etc.) [Years spent prior to the entry into force]	Number of Contracting Parties
UNCLOS	1982	1994 (60 nations) [12 years]	168 nations
UNCLOS Part 11 Implementation Agreement (Deep sea mining)	1994	1996 (40 nations) [2 years]	150 nations
UN Fish Stock Agreement	1995	2001 (30 nations) [6 years]	90 nations
BBNJ Agreement	2023	? (60 nations) [? Years]	?

BBNJ Agreement is open for signature from 20 September 2023 to 20 September 2025. As of 5 October 2023, 82 nations signed it, including all EU member states (27), UK, US, China, Australia, Brazil, Mexico.

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# Thank you!

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## Contents



Basis for establishing international fisheries instruments for the conservation and management of common or shared fish stocks in particular in areas beyond national jurisdiction (ABNJ)



Examine international legal frameworks that support combating illegal, unreported and unregulated (IUU) fishing, with a focus on the FAO Agreement on Port State Measures (PSMA) and the FAO Compliance Agreement



Overview of Regional Fishery Bodies (RFBs) including Regional Fisheries Management Organizations (RFMOs): mechanisms for cooperation, how they are constituted and function, how they implement international fisheries instruments, and the outlook



Establish chain of custody to combat IUU fishing and how FAO global information systems support as verification systems and tools



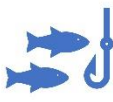





How FAO supports implementation of international instruments of relevance to fisheries, such as Convention in International Trade in Endangered Species of Wild Fauna and Flora (CITES) in fisheries sector, with a focus on legal perspectives



Basis for establishing international fisheries instruments for the conservation and management of common or shared fish stocks in particular in areas beyond national jurisdiction (ABNJ)

### Mechanism under the UNCLOS 1982 to allow for its adaptation

 <p><b>Formal amendment procedures</b></p>  <p><i>stringent requirements; undermine the package deal.</i></p>	 <p><b>Implementing agreements</b></p>  <p><i>the 1994 Part XI Agreement; the 1995 UN Fish Stocks Agreement and ; the BBNJ agreement.</i></p>	 <p><b>Provision for the obligation of States, acting through competent international organizations, to establish relevant international rules and standards in different areas</b></p>  <p><i>inclusion of provisions calling on States to work through appropriate international organizations; rule of reference; regional organizations also play a role in the implementation of the Convention and related agreements, in particular RFMOs; UN General Assembly annual resolution on oceans and law of the sea, and on fisheries; International institutions created under the Convention, such as International Tribunal for the Law of the Sea (ITLOS) entrusted a regulatory rule.</i></p>
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## Mechanism under the Convention to allow for its adaptation



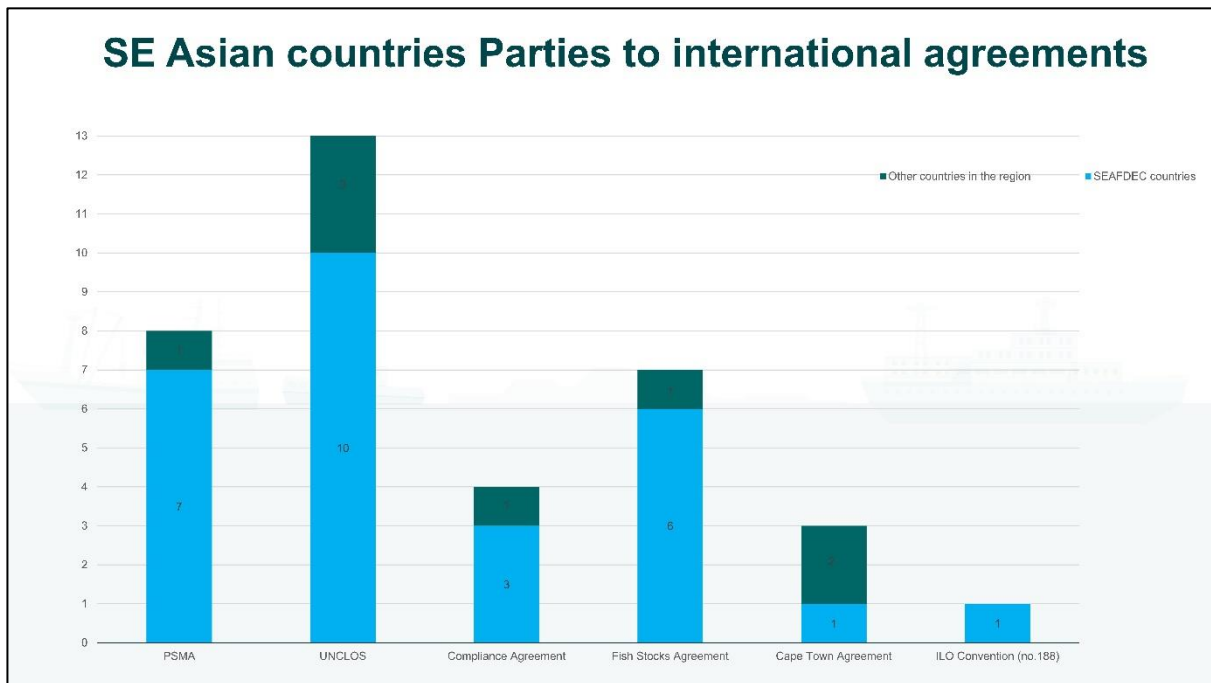
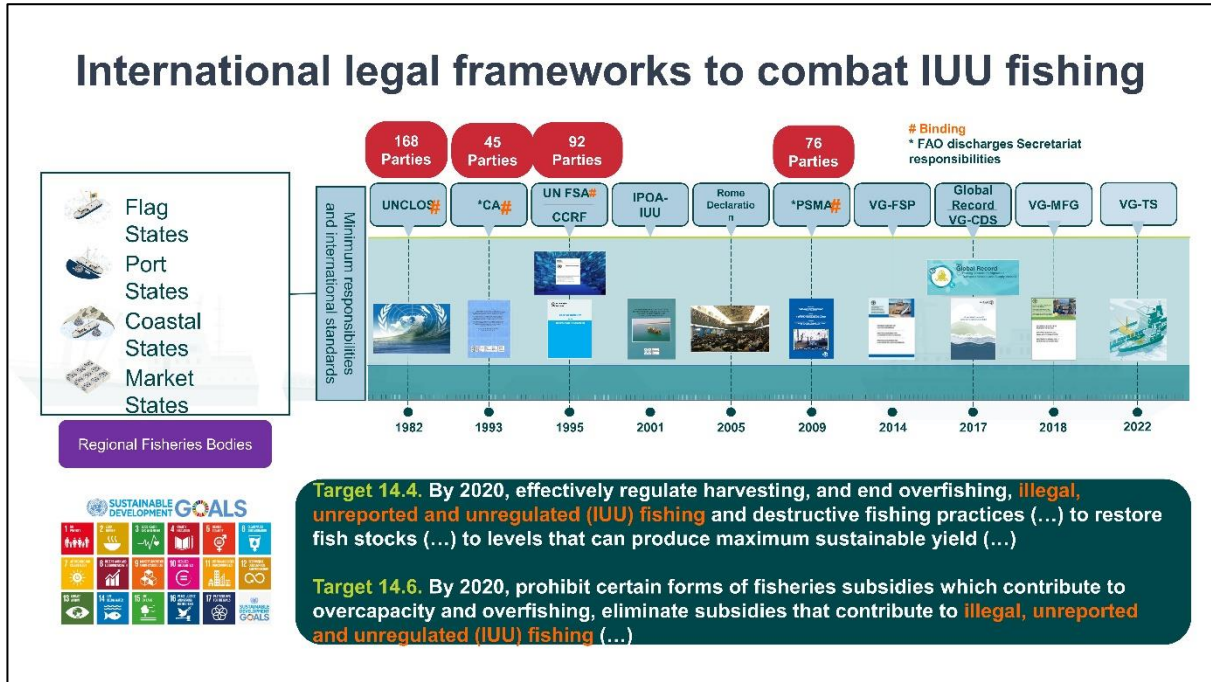
**Agreements  
between States**



**State practice and  
development of customary  
international law**

Examine international legal frameworks that support combating illegal, unreported and unregulated (IUU) fishing, with a focus on:

- the FAO Agreement on Port State Measures (PSMA); and
- the FAO Compliance Agreement



## Principles and strategies for combatting IUU fishing

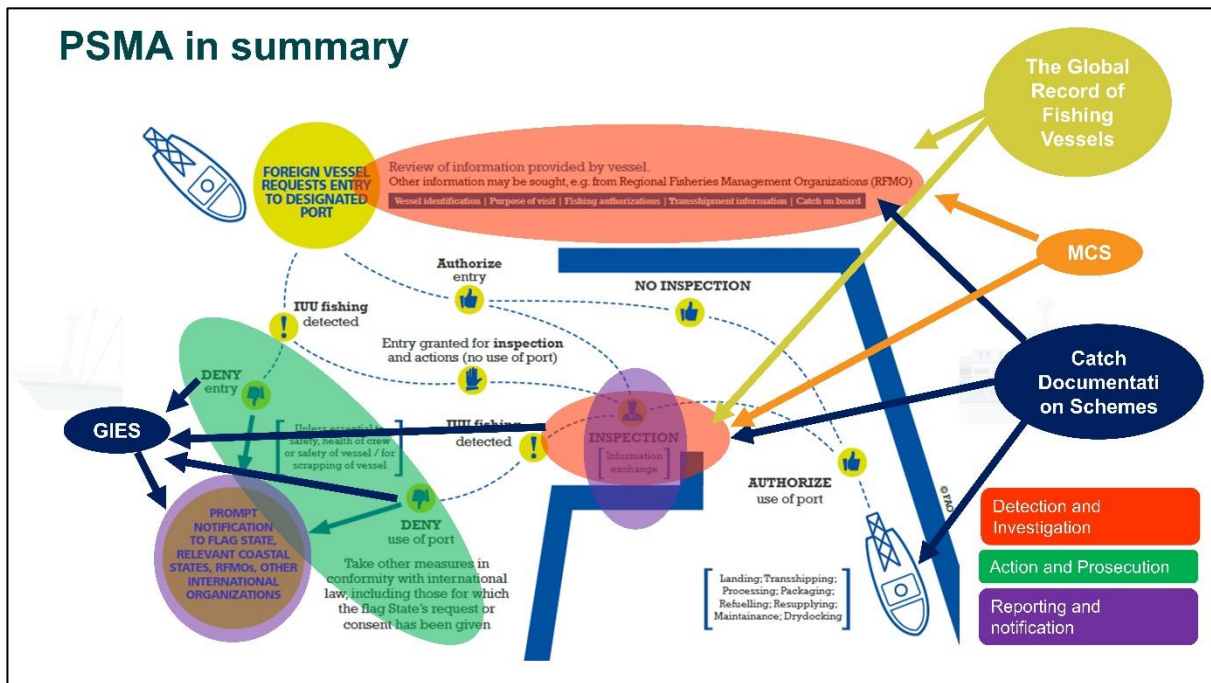
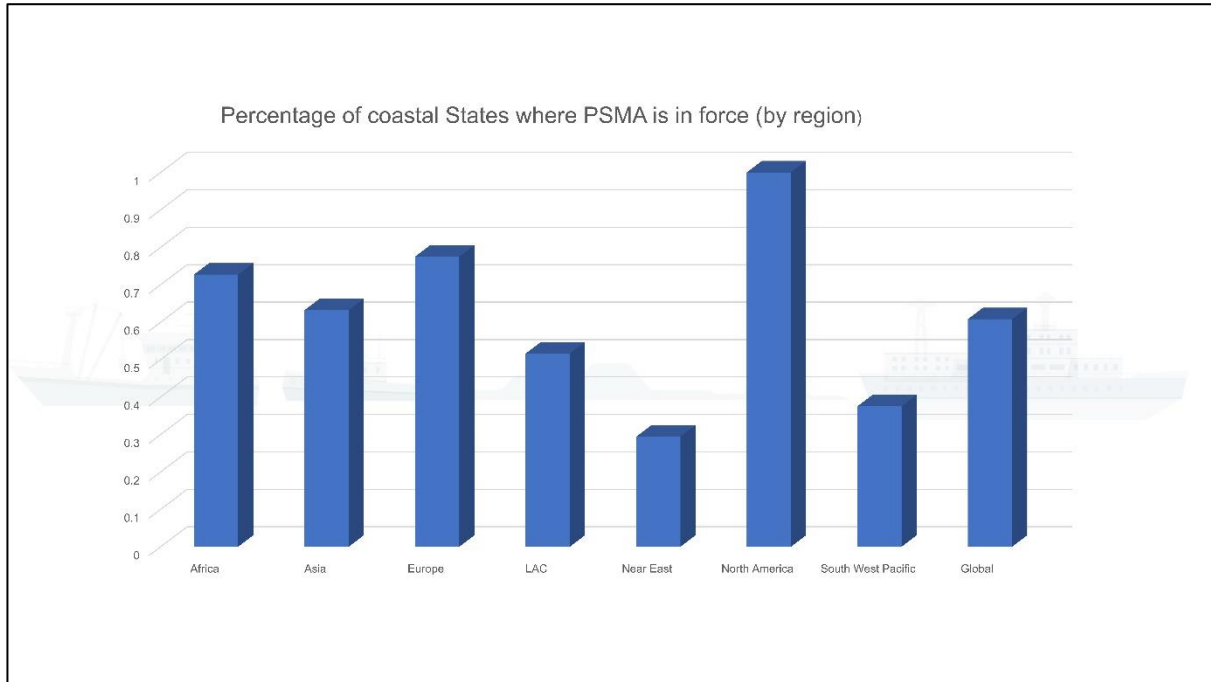
### Para. 9 of the IPOA on IUU Fishing

- Action by States individually or collectively and directly or through RFMOs, FAO or other bodies
- Phased implementation
- Comprehensive and integrated approach: exercising all available jurisdiction in accordance with international law in all relevant capacities
  - Flag State jurisdiction;
  - Coastal State jurisdiction;
  - Port State jurisdiction;
  - Market State jurisdiction;
  - Jurisdiction over natural and legal persons.

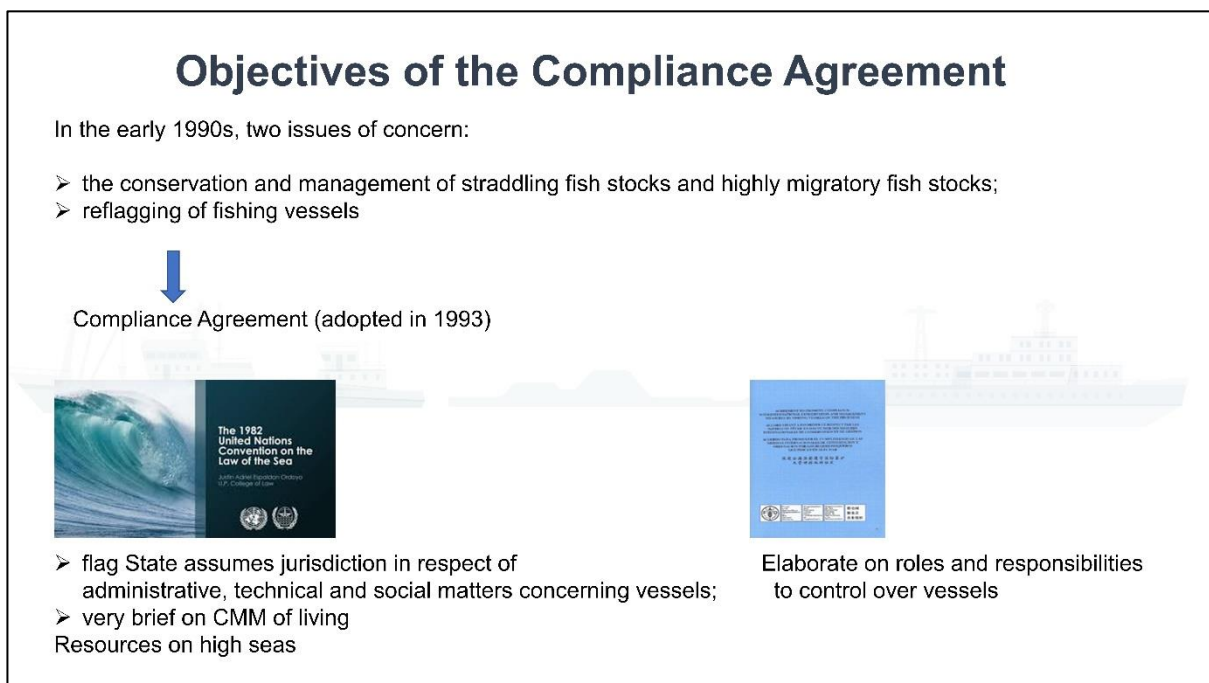
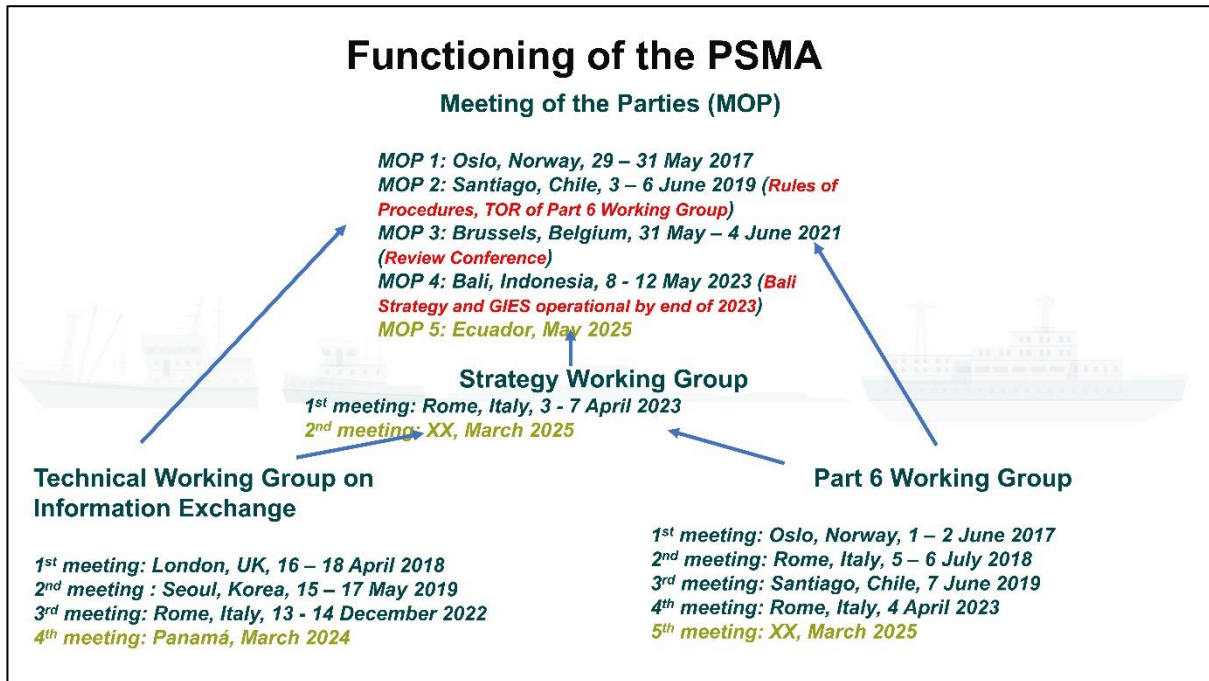
## Objectives of the FAO Agreement on Port State Measures (PSMA)



- First binding international agreement to specifically target IUU fishing
- Main objective is to prevent, deter and eliminate IUU fishing by preventing vessels engaged in IUU fishing from using ports and landing their catches
- Reduces the incentive of IUU fishing vessels to continue to operate
- Blocks fisheries products derived from IUU fishing from reaching national and international markets







## Features of the Compliance Agreement

### ➤ **Field of application**

- Vessels 24 meters in length or more
- High seas
- All species

### ➤ **Main target and requirements**

- Flag States
- Many new obligations
  - Obligatory licensing, maintain record, proper marking, detailed information on catches/landings;
  - Transfer of information to FAO (global ship registry of vessels fishing on HS)

### ➤ **Dispute settlement**

- Consent of all parties is required in each instance before referring to ICJ, ITLOS, or arbitration.

### ➤ **Entry into force**

- 25 instruments of acceptance (only in 2003).
- As of today, 45 Parties.

## Requirements of the Compliance Agreement

### Specific Requirements

#### ➤ **Flag State responsibilities (Article III)**

*Parties to ensure that fishing vessels entitled to fly their flag do not engage in any activity that undermines international conservation and management measures.*

#### ➤ **Fishing authorization (Article III (2-6))**

*Parties shall only allow its vessels to fish on the high seas with an authorization.*

#### ➤ **Record of fishing vessels (Article IV)**

#### ➤ **Marking of vessels (Article III (6))**

#### ➤ **Reporting (Article III (7)) and exchange of information (Article VI)**

*information regarding high seas fisheries outlined in Article VI made available to FAO.*

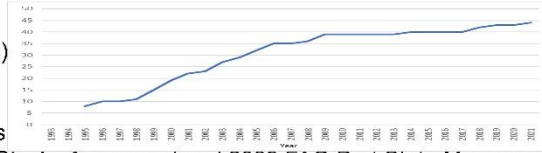
#### ➤ **Enforcement (Article III (8))**

*Parties shall take enforcement measures against any of their flag vessels that act in contravention of the agreement provisions.*

## Challenges for Strengthened Implementation

### Challenges

- Number of Parties  
44 State Parties + EU (hidden Parties)
- No Institutional set-up
- No article on monitoring, review and assess  
Problem when compared to 1995 UN Fish Stocks Agreement and 2009 FAO Port State Measures Agreement
- HSVAR: dormant system



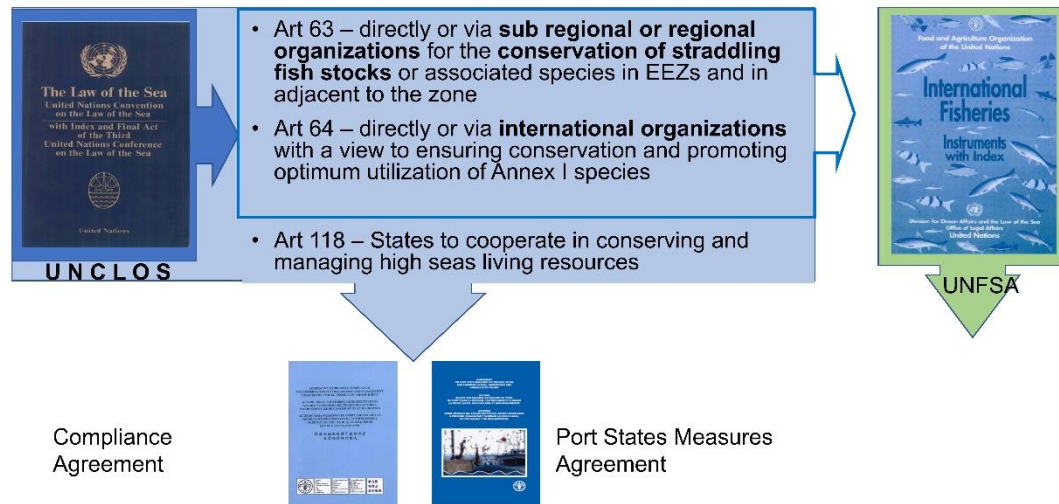
### Relevance and Importance of the Agreement

- Compliance Agreement is basic steppingstone of present-day conservation and management system of living resources on the high seas, i.e. flag State jurisdiction and still play a central role in international law on fisheries conservation and management on the high seas;
- Agreement needs to be revamped
  - database to host information exchanged under the Compliance Agreement (Global Record to serve for information exchange under the Agreement);
  - Meeting of the Parties

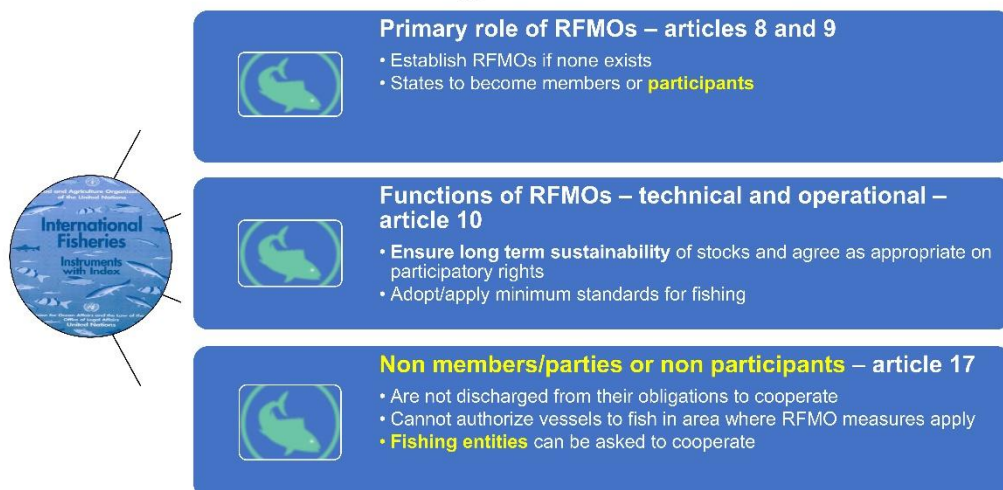
## Overview of Regional Fishery Bodies (RFBs) including Regional Fisheries Management Organizations (RFMOs):

- mechanisms for cooperation;
- how they are constituted and function;
- how they implement international fisheries instruments; and
- the outlook.

## UNCLOS basis for cooperation between coastal and fishing States on fisheries



## UNFSA requirements on cooperation for fisheries conservation and management

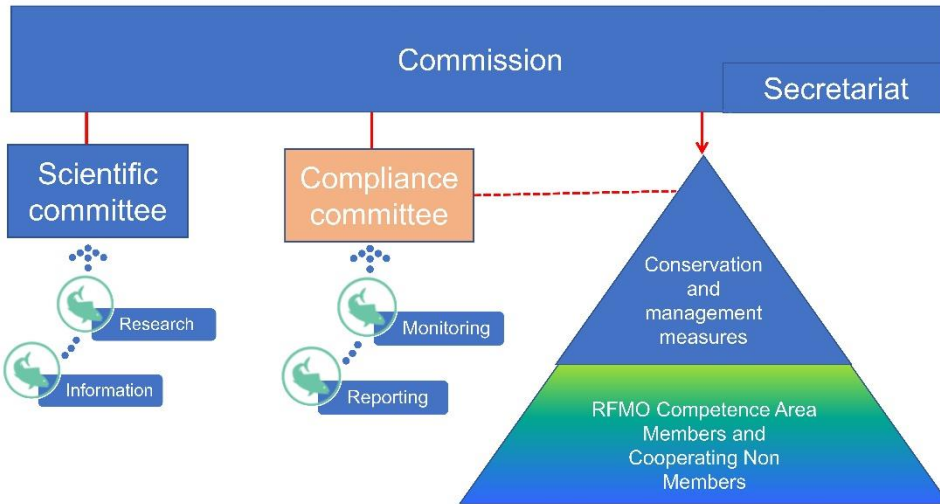




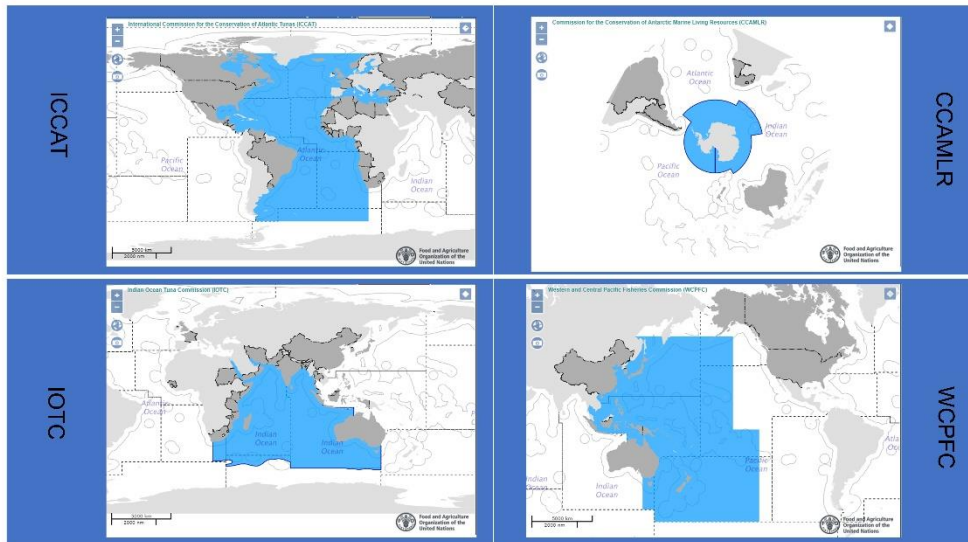




## Regional Fisheries Management Organizations (RFMOs)


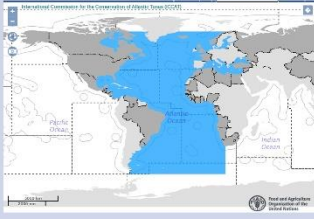


## SELECTED RFMOs


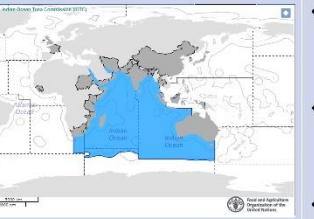




## SELECTED RFMOs - ICCAT


		Facts and features
 	<ul style="list-style-type: none"> <li>• <b>Record of vessels</b> <i>Recommendation 21-14 (LOA 20 meters and above)</i></li> <li>• <b>Monitoring</b> <ul style="list-style-type: none"> <li>➢ <i>Recommendation 03-13 data recording system, electronic logbook (over 24 meter LOA), VMS</i></li> </ul> </li> <li>• <b>Port inspection regime</b> <ul style="list-style-type: none"> <li>➢ <i>Recommendation 18-09</i></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The International Convention for the Conservation of Atlantic Tunas, signed 14 May 1966, entered into force 21 March 1969</li> <li>• <b>Objectives:</b> <ul style="list-style-type: none"> <li>• cooperate to maintain the population of tunas and tuna-like species at levels that will permit the maximum sustainable catch for food and other purposes</li> </ul> </li> <li>• <b>Area of competence:</b> Atlantic Ocean and the adjacent seas</li> <li>• <b>Species covered:</b> Tuna and Tuna-like species</li> <li>• <b>Commission Structure</b> <ul style="list-style-type: none"> <li>• <i>Commission</i></li> <li>• <i>Conservation and Management Measures Compliance Committee</i></li> <li>• <i>Standing Committee on Research and Statistics</i></li> </ul> </li> <li>• <b>Interesting features:</b> <ul style="list-style-type: none"> <li>• Adopted resolution, which requires the <b>application of an ecosystem-based approach</b> in its recommendations.</li> <li>• Developed multiple research programmes and training workshops to improve data collection and analysis in developing countries.</li> </ul> </li> <li>• <b>IUU Fishing Vessel List</b> <ul style="list-style-type: none"> <li>• Has an IUU fishing vessel list - <a href="https://www.iccat.int/en/IUUIlist.html">https://www.iccat.int/en/IUUIlist.html</a></li> </ul> </li> <li>• <b>Ecosystem Approach to Fisheries (EAF)</b> – Has specific resolution on applying the EAF: <a href="https://www.iccat.int/Documents/Recs/compendiopdf-e/2015-11-e.pdf">https://www.iccat.int/Documents/Recs/compendiopdf-e/2015-11-e.pdf</a></li> </ul>

## SELECTED RFMOs - IOTC



		Facts and features
 	<ul style="list-style-type: none"> <li>• <b>Record of vessels</b> <i>Resolution 19/04 (LOA 24 meters and above, or operate in ABNJ)</i></li> <li>• <b>Monitoring</b> <ul style="list-style-type: none"> <li>➢ <i>Resolution 15/01 and 15/03 data recording system, paper or electronic logbook, VMS</i></li> </ul> </li> <li>• <b>Port State measures</b> <i>Resolution 16/11</i></li> </ul>	<ul style="list-style-type: none"> <li>• Established in 1993 - 105th Session of the Council of the FAO under Article XIV of the FAO constitution. <a href="#">The Agreement for the Establishment of the Indian Ocean Tuna Commission</a>, signed 25 November 1993 - entered into force 27 March 1996.</li> <li>• <b>Objectives:</b> <ul style="list-style-type: none"> <li>• To promote cooperation among its members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by the Agreement</li> </ul> </li> <li>• <b>Area of competence:</b> <ul style="list-style-type: none"> <li>• The Indian Ocean and adjacent seas, north of the Antarctic Convergence</li> </ul> </li> <li>• <b>Species covered:</b> <ul style="list-style-type: none"> <li>• Tuna and tuna like species as listed including narrow-barred Spanish mackerel, Indo-Pacific king mackerel, Indo-Pacific blue marlin, black marlin, striped marlin, Indo-Pacific sailfish and swordfish.</li> </ul> </li> <li>• <b>Commission Structure</b> <ul style="list-style-type: none"> <li>• Article XIV Body (FAO Constitution)</li> <li>• Commission made up of Representatives of parties</li> <li>• Compliance Committee (COC); Scientific Committee; Working parties</li> <li>• Taiwan Province of China participates as the Fishing Fleet of Taiwan</li> </ul> </li> <li>• <b>IUU Fishing Vessel List</b> <ul style="list-style-type: none"> <li>• Has an IUU Fishing Vessel List – <a href="https://iotc.org/sites/default/files/documents/compliance/vessel_lists/IUU%20lists/IOTC%20IUU%20Vessels%20List_20230525EF.pdf">https://iotc.org/sites/default/files/documents/compliance/vessel_lists/IUU%20lists/IOTC%20IUU%20Vessels%20List_20230525EF.pdf</a></li> </ul> </li> </ul>

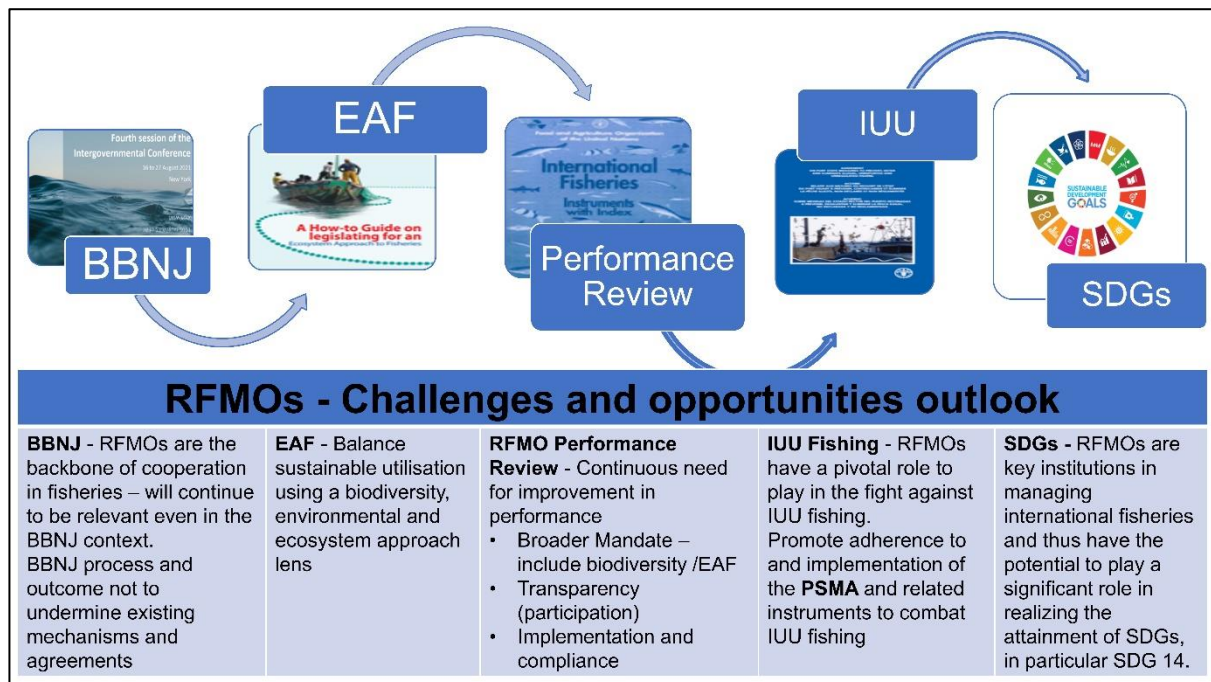


## SELECTED RFMOs - WCPFC

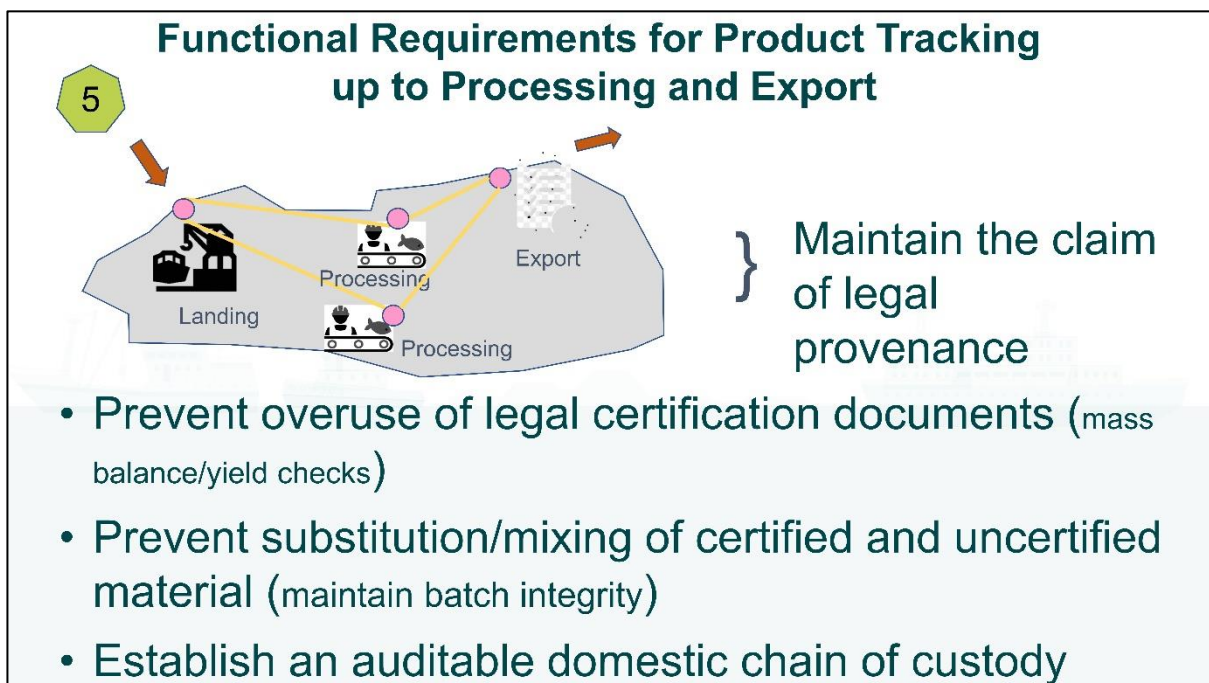
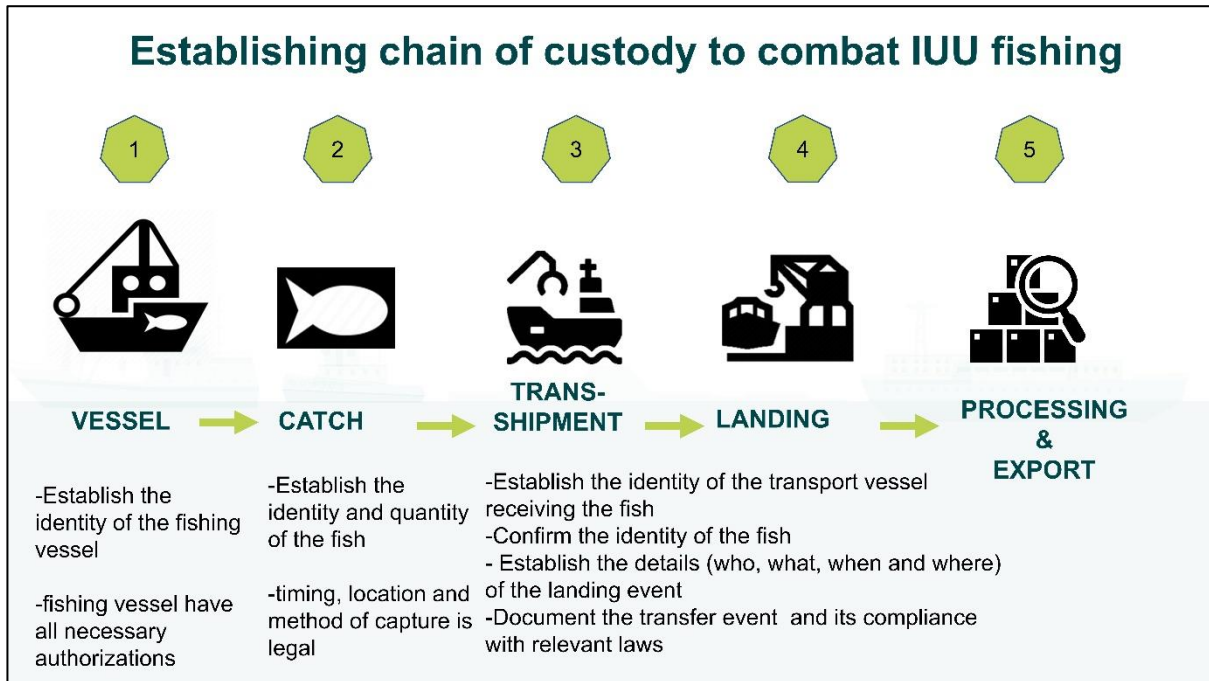
		Facts and features
<p>WCPFC C</p>  <ul style="list-style-type: none"> <li>• <b>Authorization and record of vessels</b> <ul style="list-style-type: none"> <li>➢ CMM 2018-06</li> <li>➢ Article 24 (4) of the WCPFC Convention</li> </ul> </li> <li>• <b>Monitoring</b> <ul style="list-style-type: none"> <li>➢ CMM 2014-02</li> <li>➢ Vessel monitoring system-Commission VMS</li> </ul> </li> <li>• <b>Port State Measures</b> <ul style="list-style-type: none"> <li>➢ WCPFC 2017-02</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Western Central Pacific Fisheries Commission</li> <li>• <b>Objectives:</b> <ul style="list-style-type: none"> <li>• Ensure long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean</li> </ul> </li> <li>• <b>Area of competence:</b> <ul style="list-style-type: none"> <li>• (As represented on map)</li> </ul> </li> <li>• <b>Species covered:</b> <ul style="list-style-type: none"> <li>• highly migratory fish stocks in the western and central Pacific Ocean</li> </ul> </li> <li>• <b>Commission Structure</b> <ul style="list-style-type: none"> <li>• Commission (Representative of Members) and 2 chamber system for voting by Parties if no consensus</li> <li>• Scientific Committee</li> <li>• Compliance Committee</li> <li>• Cooperating non members</li> </ul> </li> <li>• <b>IUU Fishing Vessel List</b> <ul style="list-style-type: none"> <li>• IUU Fishing Vessel List:</li> <li>• <a href="https://www.wcpfc.int/wcpfc-iuu-vessel-list">https://www.wcpfc.int/wcpfc-iuu-vessel-list</a></li> </ul> </li> <li>• <b>Other features</b> <ul style="list-style-type: none"> <li>• First RFMO established after UNFSA entered into force</li> <li>• Majority of developing coastal States and SIDS members</li> <li>• First RFMO with a <b>fishing entity</b> as a Member</li> </ul> </li> </ul>	

## SELECTED RFMOs - CCAMLR

		Facts and features
<p>CCAMLR R</p>   <ul style="list-style-type: none"> <li>• <b>Authorization of vessels</b> <ul style="list-style-type: none"> <li>➢ C10-02 (2016)</li> </ul> </li> <li>• <b>Monitoring</b> <ul style="list-style-type: none"> <li>➢ Conservation Measure 10-04 (2018)</li> <li>➢ automatic location communicators (ALCs) and forward VMS reports</li> </ul> </li> <li>• <b>Port State measures</b> <ul style="list-style-type: none"> <li>➢ Conservation Measure 10-03</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Convention on the Conservation of Antarctic Marine Living Resources - 1980</li> <li>• <b>Objectives:</b> <ul style="list-style-type: none"> <li>• The conservation of Antarctic marine living resources <i>including seabirds</i></li> </ul> </li> <li>• <b>Area of competence:</b> <ul style="list-style-type: none"> <li>• Antarctica south of the Antarctic convergence</li> </ul> </li> <li>• <b>Species covered:</b> <ul style="list-style-type: none"> <li>• All living marine resources <i>including seabirds</i></li> </ul> </li> <li>• <b>Commission Structure</b> <ul style="list-style-type: none"> <li>• Commission made up of Representatives of parties</li> <li>• the Scientific Committee</li> <li>• Standing Committee on Implementation and Compliance</li> <li>• Standing Committee on Administration and Finance</li> </ul> </li> <li>• <b>IUU Fishing Vessel List</b> <ul style="list-style-type: none"> <li>• Introduced the concept of IUU fishing</li> <li>• Adopted specific IUU fishing measures including the Party and Non Party IUU fishing vessel list and the control of nationals</li> <li>• Has an IUU Fishing Vessel List: <b>Contracting Party IUU List:</b> <a href="https://www.ccamlr.org/sites/default/files/vessels/Contracting_IUU_Vessel_List.pdf?v=944345939">https://www.ccamlr.org/sites/default/files/vessels/Contracting_IUU_Vessel_List.pdf?v=944345939</a></li> <li>• <b>Non Contracting Party IUU List:</b> <a href="https://www.ccamlr.org/en/compliance/non-contracting-party-iuu-vessel-list">https://www.ccamlr.org/en/compliance/non-contracting-party-iuu-vessel-list</a></li> </ul> </li> <li>• <b>Ecosystem Approach to Fisheries (EAF)</b> – recognised as a leading international organisation in developing best-practice in the EAF – EBFM in</li> </ul>	



Establish chain of custody to combat IUU fishing and how FAO global information systems support as verification systems and tools

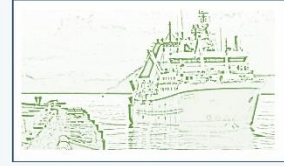




## Data Verification

There will be a higher risk of failing to detect IUU fishing and its products in trade if:

- the tools and systems available for verification are insufficient, or
- these tools and systems are not used (or under-used)



## Examples of Verification Tools and Systems

- Vessel records
- Fishing license database
- Logbook reporting
- Observer reports
- VMS
- Transshipment authorization system
- Landing authorization system
- Inspection records
- Licensed fish receiver reports

For each tool or system:

- Does it exist?
- Which key data elements does it inform?
- Access permissions?
- Speed of response?
- Linkages between systems?



## FAO Global Information Exchange Systems



### PSMA Information Exchange

- **PSMA Apps** to share data on Designated Ports and National Contact Points (article 7 and 16)
- **Global Information Exchange System (GIES)** (article 15 and 16)
  - Operationalization by end of 2023

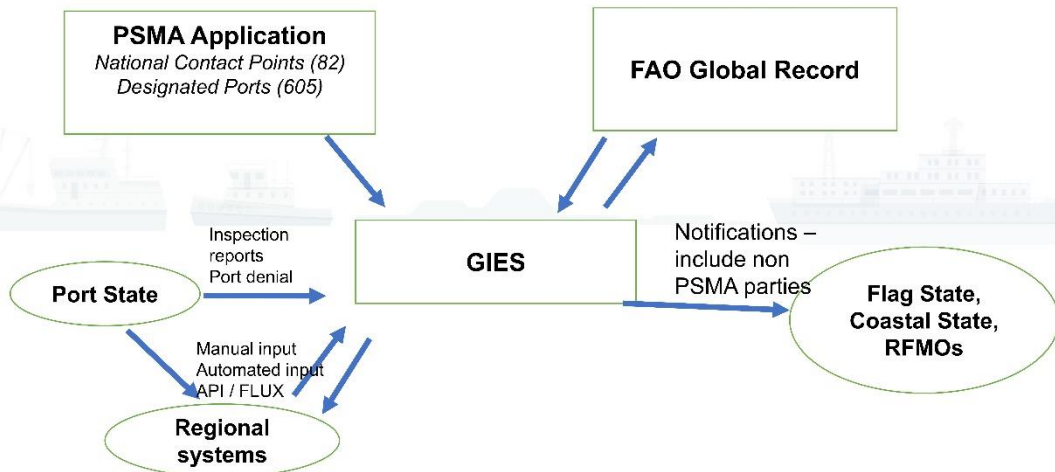


### Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels

Supporting the implementation of the PSMA and other instruments to combat IUU fishing:

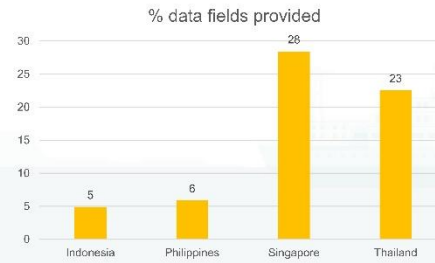
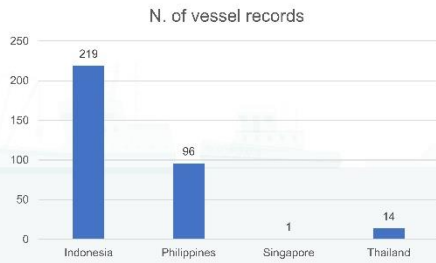
- Verification of vessel and authorisation information
- Risk analysis from historical and compliance information
- Linkage between vessel and port State inspection information and results
- Parties and non-parties to international instruments
- Other surveillance information (Coastal State)

## FAO Global Information Exchange Systems



## Global Record: status of participation

### SEAFDEC Members



How FAO supports implementation of international instruments of relevance to fisheries, such as Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in fisheries sector, with a focus on legal perspectives

## FAO implementation of instruments of relevance to fisheries



## FAO support in implementation of CITES

INTERACTION

CONVERGENCE

Page 13 of the Study

OPPORTUNITIES FOR COLLABORATION

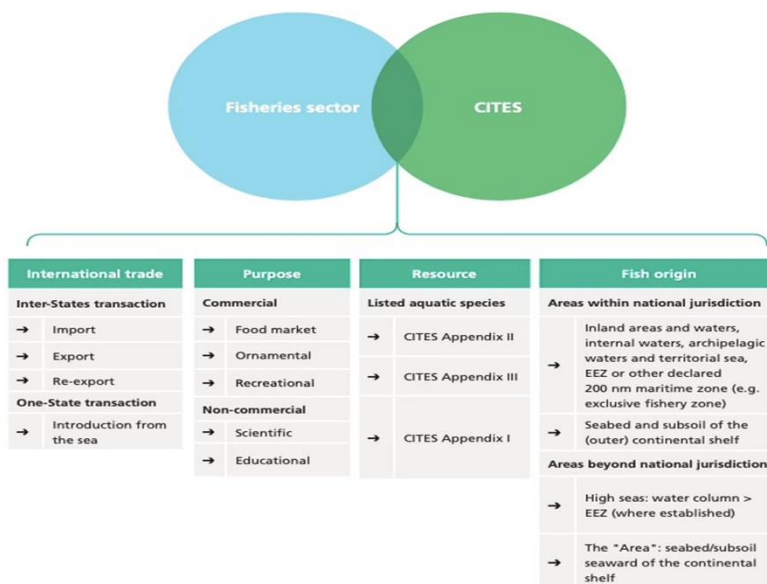


Table 4 Correlations between outputs of the CITES regime and fisheries management	
Outputs	
CITES Regime	Fisheries Management
<ul style="list-style-type: none"> <li>• MA / SA</li> <li>• NDF (SA)</li> <li>• LAF (MA)</li> <li>• Compliance with national legal frameworks that implement CITES</li> <li>• Confiscation of specimens (MA or Enforcement Authority)</li> <li>• Voluntary export quota of CITES-listed species</li> </ul>	<ul style="list-style-type: none"> <li>• FA</li> <li>• Stock assessments (FA or RFB)</li> <li>• CDS, certificate or fishing authorizations e.g. licences, permits or quotas (FA or RFB)</li> <li>• Compliance with national fisheries legal frameworks, including those implementing RFB measures</li> <li>• Confiscation, seizure or forfeiture of aquatic species (FA or Enforcement Authority)</li> <li>• Ban or limit on the catch of certain aquatic species, which may include CITES-listed species</li> </ul>
High-level objective: ensuring responsible, legal, sustainable utilization of resources (species, biodiversity and ecosystems) + SDG14	

MUTUAL SUPPORT

Page 29 of the Study

COMPLEMENTARITY

STRENGTHENING EACH OTHER

## Primary Considerations

1st Consideration	
The CITES-specific legislation of the country is placed in Category 1, 2 or 3 under the CITES NLP	
→	Check online at <a href="https://cites.org/legislation">https://cites.org/legislation</a> for details.
→	If legislation is placed in Category 2 or 3, seek guidance from the CITES MA, SA, or CITES Secretariat, as appropriate, on which requirements are not met.
→	Check whether there is an ongoing process to address the gap(s).



## CITES specific legislation and CITES related legislation

Box National Legislation Project's (NLP) categorization of countries			
Minimum Requirements	Category 1	Category 2	Category 3
1. Designation of at least one MA and one SA	✓	Not all nor none. At least one minimum requirement	X
2. Prohibiting trade in specimens that contravenes CITES	✓		X
3. Penalizing such trade	✓		X
4. Confiscation of specimens illegally traded or possessed	✓		X

Page 87 and Annex D of the Study

List with selected countries in NLP Category 1 and their respective CITES-specific and CITES-related legislation

### 2nd Consideration

Identification of the main national CITES-specific legislation	Identification of relevant national fisheries legislation
e.g. Malaysia's International Trade in Endangered Species Act No. 686 of 2008. More examples in Annex D of the study.	e.g. Samoa's Fisheries Management Act of 2016 and Marine Wildlife Protection Regulations of 2009. More examples in Annex E of the study.
→	Check online at <a href="http://www.fao.org/faolex/en/">http://www.fao.org/faolex/en/</a> ; <a href="https://www.ecolex.org">https://www.ecolex.org</a> and at any other website of national legislative bodies and authorities.
→	Check if legislation is in force and valid.
→	Check both primary legislation (e.g. act, code, law, statute) and secondary legislation (e.g. decree, regulation, ministerial ordinance, order).

Annexes D and E of the Study

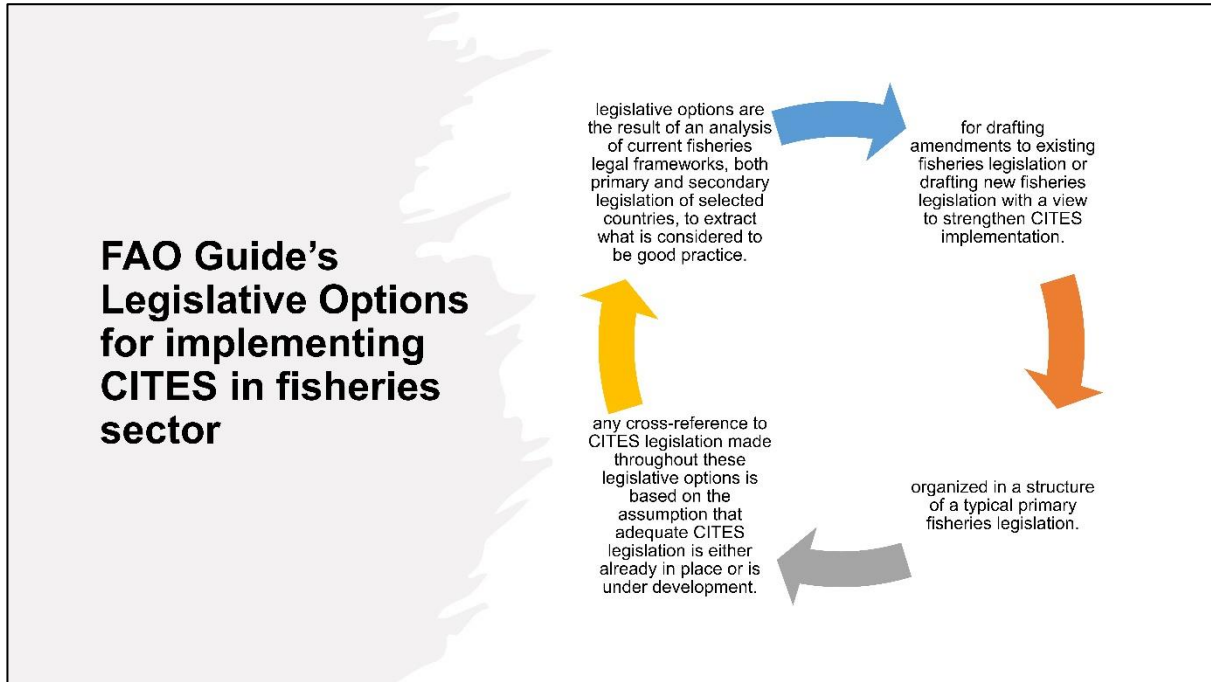
3rd Consideration	
<p><b>The selected CITES-specific legislation:</b></p> <ol style="list-style-type: none"> <li>provides for a clear definition of IFS in accordance with the interpretation given by the parties on Resolution Conf. 14.6 (Rev. CoP16), clarifying that the specific provisions on IFS apply to one-State transactions</li> <li>provides for a clear definition of NDF and LAF in accordance with CITES, IFS Resolution Conf. 16.7 (Rev. CoP17) and Resolution Conf. 18.7 (Legal Acquisition Findings)</li> <li>refers to compliance with, and applicability of, other relevant legislation (general terms) or fisheries legislation (specific terms)</li> <li>designates the FA or other relevant authority responsible for fisheries management, conservation, development and MCS, maritime matters among the CITES SA and/or the MA</li> <li>clearly outlines the mandates and responsibilities of the FA, the CITES SA and MA, ensuring coherence and includes the duty to cooperate and coordinate with other authorities</li> <li>promotes or provides mechanisms for effective cooperation and coordination between those authorities as well as with other relevant authorities</li> <li>protects all the CITES-listed species commercially exploited and managed, including the recent listing of sharks and rays</li> </ol>	<p><b>The selected fisheries legislation:</b></p> <ol style="list-style-type: none"> <li>provides for a clear definition of international trade as comprising import, export, re-export and IFS transactions</li> <li>refers to relevant definitions in CITES-specific legislation, particularly the meaning of MA, SA, IFS, NDF and LAF</li> <li>makes cross-reference to compliance with, and applicability of, other relevant legislation (general terms), to CITES, or the relevant CITES-specific legislation (specific terms)</li> <li>clearly outlines the mandates and responsibilities of: the FA; port authorities; other relevant authorities responsible for fisheries management, conservation, development and MCSE and maritime matters, ensuring coherence and includes the duty to cooperate or collaborate with other relevant authorities</li> <li>promotes or provides mechanisms for effective cooperation, collaboration, coordination and interaction between the FA and other relevant authorities</li> <li>protects and/or provides for conservation and management measures of CITES-listed aquatic species commercially-exploited and managed, including the recent listing of sharks and rays</li> </ol>

**Pages 98-100 of the Study**

4th Consideration	
<p>Seven Key CITES Elements and the extent to which any or all of them are reflected in the CITES-specific legislation are understood in order to inform legal drafters, practitioners, policy-makers and other relevant users of this guide on the approach or action that should follow</p>	<p>Six Key Fisheries Elements and the extent to which any or all of them are reflected in the fisheries legislation are understood in order to inform legal drafters, practitioners, policy-makers and other relevant users of this guide on the approach or action that should follow</p>

**Expected outcomes of the preliminary considerations**

Identification of potential gaps in the legislation, provisions which require improvements.  
Ensuring consistency, coherence and complementarity in both sets of legislation.  
Decision to proceed in amending existing fisheries legislation or to enact new legislation  
....



### Database of measures on conservation and management of sharks

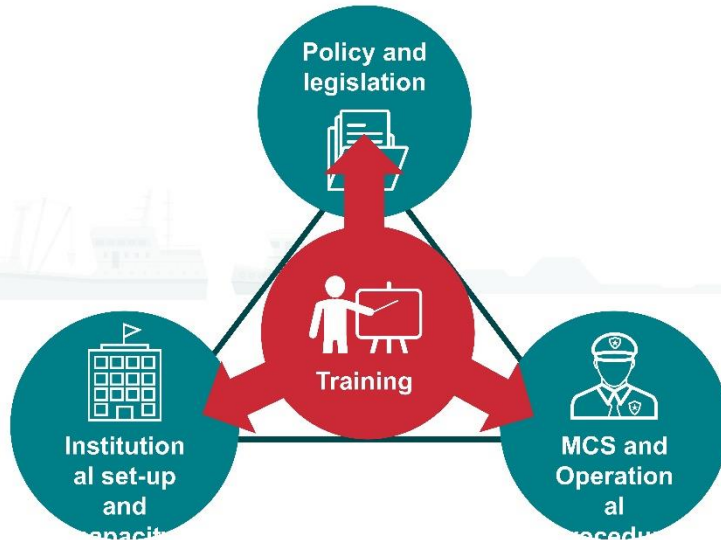
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SPECIES
INSTITUTIONS
COUNTRIES
INDICATORS

## Picked dogfish

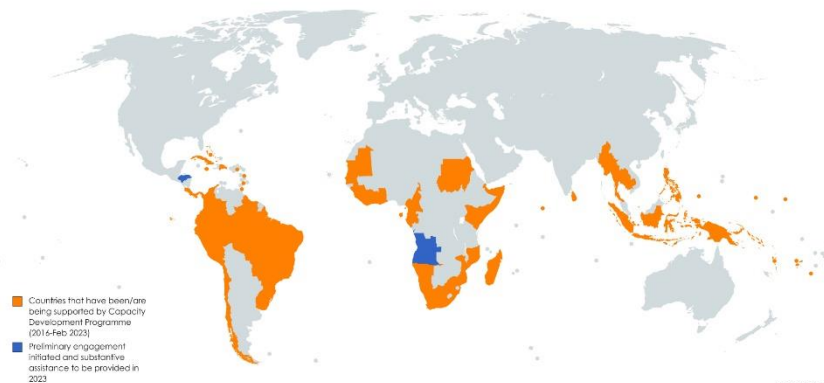
The [database on measures on conservation and management of sharks](#) provides a collection of instruments for the conservation and management of sharks. These instruments include binding and non-binding Conservation and Management Measures, Plans of Action, and national legislation.

## FAO PSMA Global Capacity Development Programme



## Countries supported by PSMA Capacity Development Programme

Support to 56 countries (2017- Nov 2023)



Support to implement the PSMA and flag, coastal and market State responsibilities

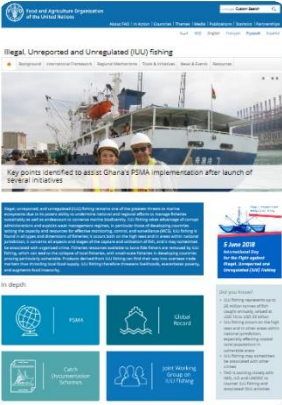


Disclaimer: The boundaries and names shown and the designations used on this map do not imply the expression of any opinion whatsoever on the part of FAO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers and boundaries. Dashed lines on maps represent approximate border lines for which there may not yet be full agreement

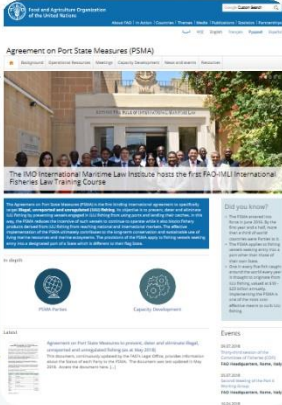


## FAO Websites on combatting IUU Fishing


### IUU Fishing



### PSMA



### Global Record



## Regional Training Course on UNCLOS 1982 Fisheries Perspective

# FAO and Regional Fisheries Management

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Photo credit: Water Sea Blue Atlantic Ocean, Susann Guenther/ Shutterstock



[www.seafdec.or.th](http://www.seafdec.or.th)