

COMMISSION OF THE EUROPEAN COMMUNITIES

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Communication from the Commission to the Council
and the European Parliament

"Fishing on the High Seas"

A Community approach

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1. International cooperation concerning conservation and rational management of marine living resources.

Fishing is an economic activity. The utilization of marine living resources is necessary for the world's food supply and for the development of coastal and island regions.

Community fishing outside Community waters is an important economic activity. In 1987 Community catches in the waters of third countries and on the high seas amounted to 1.7 million tonnes compared to catches in Community waters of 4.5 million tonnes.

In a global context the Community is comparable to an important coastal State with a long and productive coastal zone as well as having one of the major high sea fishing fleets only surpassed by those of the former USSR, Japan, and China. The Community conservation policy reflects these diverse fishing interests in that it applies not only to the Community Fishing Zone but as well, in respect of the activities of Community fishing vessels, to waters beyond.

The general extension of the fishing zones of coastal states to 200 miles from the base lines placed 35% of the world ocean under the jurisdiction of the coastal states concerned. The result was a "nationalization" of the Earth's surface of an unprecedented scale (approximately 25% or nearly 3/4 of all the continents added together) achieved predominantly without resort to use of force but through international negotiation and agreements. It was clearly recognized at the time that the provisions of the UN Convention on the Law of the Sea concerning the conservation and rational management of the marine living resources are closely interrelated and form a balanced whole. Rights and obligations go hand in hand and those who claim rights under the Convention must also be willing to shoulder the corresponding obligations. The basic principles relating to the conservation and rational management of the marine living resources of the Convention on the Law of the Sea, which has not yet entered into force, are set out in the Annex.

Coastal states now undertake the management of almost 95% of existing marine resources leaving a mere 5% of the marine resources under the regime of the high seas.

Regardless of the fact that the Convention contains an obligation for coastal states to give other states access to the surplus of the allowable catch subject to certain conditions and a recognition of the special status of habitual fisheries the extension of fishing zones to 200 miles resulted in a major redeployment of existing distant water fleets, aggravating a situation of overcapacity in certain fisheries beyond established EEZs. The expectation that the establishment of EEZs would result in healthier fish stocks within these zones has not been met. Coastal states have far too often not managed their resources rationally.

It is in the interest of all fishing nations that fish stocks be conserved and exploited rationally. Only through proper management is it possible to compensate for the natural fluctuations in the stock situation and obtain a stable and economically viable fishery. Well adjusted fisheries are also a prerequisite for the proper functioning of the market for fisheries products. Not only will greatly fluctuating landings of one species produce instability in prices for this product but they may also affect the economy of other fisheries through substitution on the world market. A recent example was the dramatic increase in landings of Alaska pollack in the late 1980s which led to price reductions for cod, thereby aggravating the problems in the cod fishery which already were suffering world wide due to the depletion of stocks.

In spite of the common effort to conserve international marine resources, it is nevertheless a fact that many of the oceans' major fish stocks are at present overexploited. Perhaps the most striking example of such overexploitation is that of the Alaska pollack stock in the Bering Sea. Having reached levels of around 4 million tonnes in 1988 and 1989, catches have since declined and the stock has now been reduced to such a low level that serious restrictions in the fishery are being introduced, even a moratorium is being contemplated by the coastal states.

In order to establish a permanent framework for the management of this stock in the future, an international Convention is in the process of being negotiated by the interested fishing nations. It has been recognised that only through international cooperation it is possible to achieve rational management of fish stocks occurring on the high seas.

The Law of the Sea Convention provides for different types of international cooperation in order to protect fish stocks which are not confined to the EEZ of a particular coastal state. In line with these provisions a great number of bilateral agreements on joint management of common stocks have been concluded (the Community has such agreements with Norway and Sweden) as well as regional fisheries organizations for the management of stocks of interest to a greater number of fishing nations. The Community is a Contracting Party to North Atlantic Fisheries Organization (NAFO), North East Atlantic Fisheries Commission (NEAFC), International Baltic Sea Fishery Commission (IBSFC), North Atlantic Salmon Conservation Organization (NASCO), and Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR).

The difficulties which the Community's distant water fleets are or risk being faced with both when fishing in the EEZs of third countries and on the high seas may be summarized as follows.

II. Fishing in the EEZs of third countries

The Community responded successfully to the political and economic challenge of the general extension of the fishing zones of coastal states to 200 miles. In view of the dependency of the Community fleet on access to the waters of third countries, arrangements permitting such access, mainly in the form of fishing agreements, are today a basic element of the CFP. The more stable of these agreements have been the ones which have an element of joint management of common stocks.

In relation to the economically advanced countries, the Community has faced difficulties in bringing certain countries to accept the obligation to give other states, and in particular those whose nationals have habitually fished in the zone, access to the surplus of the allowable catch subject to the conditions fixed by the coastal state concerned. As regards US waters the Community fleet is being phased out of the fisheries at a much quicker pace than it has been possible for US fishermen to acquire the necessary fishing capacity and to develop market outlets. Canada, on the other hand, has created unacceptable links between access to surplus stocks for Community fishermen in Canadian waters and restrictions on catch possibilities on stocks which straddle between the Canadian EEZ and the high seas in the so called NAFO Regulatory Area. The lack of agreement has led Canada to close its ports for Community fishing vessels contrary to the provisions of GATT.

In relation to the developing countries, and in particular those in Africa, the Community has been able to obtain, generally speaking, a satisfactory level of catch possibilities. There is, however, a growing and legitimate interest in these countries to exploit their marine resources themselves. Apart from increasing their request for compensation from the Community, some countries are showing a growing interest in allocating catch possibilities to joint-venture companies. To the extent that the formation of such a joint-venture company involves the changing of the flag of Community vessels, catches will no longer be considered Community catches but will have to enter the Community market on the terms that apply for trade in such products between the Community and the country concerned. For the majority of these countries, these terms are those contained in the Lome Convention.

III Fishing for stocks which straddle between one or more EEZs and the high seas

According to Article 63 of the Convention on the Law of the Sea, the coastal state and the states fishing for straddling stocks in the area adjacent to the EEZ are obliged to seek to agree upon the measures necessary for the conservation of these stocks in the adjacent area. For all interested fishing states, this contains an obligation to cooperate with two major implications: One is that all states involved have to pay due regard to their respective rights and obligations. The other is that such cooperation be directed towards ensuring consistency in the management of such stocks within the EEZ and in the area adjacent to the zone. Both the NAFO and the NEAFC Conventions contain provisions to this effect. In practice, this principle is fulfilled to the extent that the interested states agree on the fishing effort which should be applied to a specific stock and fix a corresponding TAC. To the extent that the allocation of such a TAC between the interested parties reflects not only the distribution of a stock inside and outside the EEZ but also a traditional fishing pattern, this procedure will not necessarily result in the same fishing mortality within the EEZ and in the area adjacent to the zone. In order to achieve that, it would be necessary to allow the states concerned to fish their quota both within the EEZ and in the adjacent waters. Although such an access regime would seem to result in a more rational use of the fish resources, coastal states are normally considering such an arrangement as a major concession which is only granted in the context of wider cooperation in the field of fisheries.

The present exploitation pattern of straddling stocks has created tensions between various parties involved in the fishing. Even at a time when the existing Convention on the Law of the Sea has not yet entered into force the unfulfilled aspirations of the parties who negotiated the text are again coming to the surface. There is a general tendency by certain coastal states to put the blame for the poor state of straddling stocks on the activities of the distant water fleets. This happens even when the catches of these fleets only amount to a minor share of the total out-take from the stocks concerned. Coastal states tend to regard catch possibilities for the distant water fleets as being residual after the fleets of the coastal states have taken what they need. Following this logic the overfishing is primarily being conducted by the distant water fleets while poor management of the coastal fisheries or insufficient scientific data may be just as much to blame.

Although, according to Article 56 of the Convention of the Law of the Sea, a coastal state, in exercising its rights and performing its duties in the EEZ, shall have due regard to the rights and duties of other states, certain important coastal states have in bilateral negotiations and in international fora taken the view that improved conservation of straddling stocks can only be achieved by giving more authority to the coastal states. These countries argue that the distant water fleets do not respect the obligations which are linked to the freedom to fish on the high seas. They also refer to Article 116 of the Convention which i.a. stipulates that nationals of all states have the right to engage in fishing on the high seas on condition that they respect the rights and duties as well as the interests of coastal states provided for in the Convention.

The conflict between the interests of the coastal states and the high sea fishing nations is being highlighted in connection with the preparations of the United Nations Conference on Environment and Development (UNCED) in Rio in June 1992 where two distinctly different approaches have been advanced with regard to the protection, rational use and development of living marine resources. The discussions center on the management of straddling stocks. Early on in the preparations of the Conference, the discussions were based on a fairly balanced text which takes the approach that the environmental principles of the Law of the Sea should be refined somewhat in order to clarify them and make them easier to implement and should, as in the Convention of the Law of the Sea, be applied to both the high seas and the EEZs. A later paper largely inspired by the Latin American countries seeks to establish improved rules on conservation only for the high seas, arguing that EEZs are the exclusive sovereignty of coastal states. This approach is also supported by Canada.

The view of the Commission is that the document which is finally to be agreed by UNCED should address the problem of sustainable exploitation and conservation of living marine resources throughout the world's oceans. This implies that consistent conservation aims and compatible management strategies be applied both inside and outside areas of national jurisdiction. In the case of straddling stocks, this is particularly crucial as such stocks, by virtue of their straddling EEZ's and the high seas, require a joint approach and joint management.

Furthermore, the Commission views with concern the tendency on the part of certain states to somehow use UNCED to undermine the principles enshrined in the Convention of the Law of the Sea which have established a balance between the rights and obligations both of coastal states and high sea fishing nations. Coastal States do not enjoy complete freedom of action within their EEZ's as stated in Article 56 of the Convention on the Law of the Sea referred to above. Furthermore, any attempt to extend the application of rules in force in the coastal states to seas adjacent to the EEZ's would constitute a major extension of the coastal states' rights in contradiction to the Convention on the Law of the Sea and would be unacceptable.

Both bilaterally and in various international fora coastal states have made proposals aimed at restricting the activities of the distant water fleets. This has invariably implied giving more authority to the coastal states over the management of the stocks concerned.

The differences between the coastal state and the other states interested in the fishing for straddling stocks relates to the principles of management as well as to enforcement measures.

As regards the management of such stocks the following strategies are being pursued or contemplated by coastal states:

- coastal states may try to exercise control over fishing activities outside the EEZ; Canada has for years obliged nations fishing in the Regulatory Area of NAFO to accept Canadian management strategies for straddling stocks in exchange for being allocated fishing possibilities within the Canadian EEZ; The Community has always rejected such "creeping jurisdiction"; Chile is introducing in its national legislation a definition of presence seas ("Mar presencial") which comprises the high seas outside 200 miles. The legislation imposes restrictions for products originating in the "Mar presencial" entering the Chilean territory.
- a coastal state may try to withdraw a certain stock from the management of a regional fisheries organization; this is the situation with regard to the cod stock in area 2J3KL of NAFO for which the Fisheries Commission of NAFO, at the initiative of Canada, has recommended a ban on fishing outside the Canadian EEZ, whilst fishing possibilities in Canadian waters are permitted; the Community considers such a practice to be an infringement on the rights to utilize the living resources of the high seas; the Community has accordingly been voting against and objecting to such recommendations for a ban.
- a coastal state may wish to limit the competence of a regional fisheries organization to the part of a straddling stock which appears outside its EEZ; such a regime would not guarantee consistency in the management of such a stock within the EEZ and in the adjacent waters; for parties fishing this stock outside the EEZ, specific limitations on their fishing possibilities on the high seas can only be considered acceptable in the framework of a joint management of the total stock including the part of the stock inside the EEZ; furthermore, it would in most cases be impossible to perform a reliable scientific assessment on only part of a stock which is the prerequisite for making management proposals,

- coastal states may claim the power to veto any proposal for fixing a TAC; under the traditional regional fisheries conventions each of the Contracting Parties are entitled to object to a recommendation which it can not accept. However, even this right is under threat in NAFO where certain Parties are attempting to limit the use of the objection procedure,

As regards enforcement the following proposals have been made by coastal states:

- the regulation of the fisheries outside the EEZ of the coastal state should be based not only on the actual reporting of catches from the vessels conducting the fishery but could be supplemented by estimation of catches obtained i.a. by aerial surveillance; the Community has refused to accept the estimates calculated by Canada on this basis since they cannot be based on verifiable evidence. For the time-being, the Canadian estimates cannot substitute for the official catch reporting system which is in place and which allows for estimates of catches to be made much more accurately.
- Contracting Parties to regional fisheries organizations should be allowed to place inspectors or observers on board each other's vessels on the high seas; this is acceptable to the Community on the condition that the provisions are properly defined and allow for really reciprocal inspection arrangements such as those provided for under the NAFO Scheme of Joint International Inspection; furthermore, the Community has always insisted that it is the responsibility of the flag state to follow up on reports of apparent infringements and impose penalties if appropriate;
- Contracting Parties should be allowed to arrest on the high seas vessels of other parties which are reasonably believed to have acted in contravention of the appropriate Convention; such a provision is already foreseen in the Convention for the Conservation of Anadromous stocks in the North Pacific Ocean; the Community considers such provisions to be inconsistent with the jurisdiction of the flag state;
- Contracting Parties should, in addition to arresting vessels, impose penalties; in NASCO the US and Canada jointly proposed that Contracting Parties be permitted to take enforcement action against vessels of other Parties fishing on the high seas. Not only the Community but other Contracting Parties to NASCO were strongly opposed to such a provision. The right for Contracting Parties to arrest vessels of another party and to impose penalties is always presented as being reciprocal; in practical terms there can be no real reciprocity because only the coastal state can in fact undertake such action;

IV Fishing by Non-Contracting Parties to regional fisheries organizations

Management measures adopted for a certain area of the high seas by a regional fisheries organization apply only to the vessels flying the flag of one of the Contracting Parties. Fishing activities by Non-Contracting Parties may pose a serious risk to the conservation of the stocks concerned. The basic problem is how to reconcile the conservation measures taken by Parties to a regional fisheries organization with the obligations which the Non-Contracting Party has under the Convention on the Law of the Sea when fishing on the high seas. The problem is aggravated by the fact that it is normally not very difficult for a vessel to change flag. The number of Non-Contracting Parties in a certain area may thus increase rapidly. A special problem arises from the fishing by vessels flying a flag of convenience. Such states normally have few sanctions ready to be used against any of their vessels not respecting their obligations under the Law of the Sea.

As a Contracting Party to a number of regional fisheries organizations the Community has an interest in that conservation measures agreed upon within such an organization are not undermined by the fishing of vessels of Non-Contracting Parties. The Community has accordingly taken the position that Non-Contracting Parties should be encouraged to assume the same obligations as Contracting Parties and to associate themselves with the work of the regional fisheries organizations concerned and if appropriate join the organization. This of course raises the delicate question of how to share the catch possibilities with the newcomers. It is, however, considered to better serve the interest of the Contracting Parties to try to find a solution to this problem on the lines of the provisions of the Convention on the law of the sea, in particular Articles 118 and 119, than having to accept an unregulated fishery.

Certain coastal states (Canada) take the view that the aim should be to eliminate all fishing by Non-Contracting Parties. In this connection, it has been proposed that Contracting Parties take the necessary steps to prevent the landing and marketing of fish caught in violation of agreed conservation measures. The Community has insisted that the question of introducing such measures could only be considered as a last resort, after it has been clearly established that the Non-Contracting Party has refused to cooperate with the other interested Parties in conserving the fish stocks, for example by not accepting an invitation to join the relevant regional fisheries organization.

V Fishing on the high seas

The Convention of the Law of the Sea stipulates that all states have the duty to take, or to cooperate with other states in taking such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas. The freedom to fish on the high seas is thus, according to the Convention, a right accompanied by specific obligations.

There is no existing fisheries organization which has the global responsibility for the conservation and management of the living resources of the high seas. The one who comes the closest to such an organization is the International Whaling Organization. However, parts of the high seas are covered by regional fishing organizations when they fall within the Convention Area of such organizations.

Since 1989, the United Nations General Assembly has in some limited way acted to protect the living resources of the high seas. That year, the General Assembly adopted its first Resolution introducing a moratorium on certain fisheries with large scale pelagic driftnets. In 1991, this process came to its immediate conclusion by the General Assembly adopting the Resolution which imposes a general moratorium on all large scale pelagic driftnet fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas, by 31. December 1992. The Community has supported the introduction of a general moratorium on this kind of fishing activity and has already taken the necessary steps to have it implemented in Community legislation.

The conservation of the living resources of the high seas has been the subject of great concern to various environmental groups, in particular, in the United States. Up until now, the interest of these groups has, primarily, been directed towards the conservation of certain marine mammals without fully appreciating the effects on the utilization of other marine resources.

Fishing activities have been affected as some of these species are caught as incidental catches. Attention has been focussed particularly on incidental catches of dolphins in the tuna fishery and incidental catches of sea turtles in certain shrimp fisheries.

Political pressure from these environmental groups have resulted in the United States introducing trade restrictions against fish products deriving from fisheries which are deemed liable to involve high levels of incidental catches of marine mammals, in particular fishing for tuna in the South East Pacific. Such trade restrictions are also extended to countries which export tuna to the United States and are known to import tuna from such fisheries (secondary embargo). The trade restrictions resulting from the introduction of such secondary embargos have been deemed to be out of proportion compared to the problem they were meant to solve. In a panel set up by GATT, it has been established that the American measures are deemed not to be in conformity with the principles of GATT.

Community vessels are not engaged in the fishing for tuna in the South East Pacific. Nevertheless, the introduction by the United States of secondary embargos will have a negative economic effect on the Community tuna fleet. Not only will the Community producers of tuna lose a market in the United States. In addition, tuna from other countries which can not enter the US market will to a large degree be diverted to the Community market thereby putting a downward pressure on prices in the Community.

VI Conclusions

Considering the diverse fishing interest of the Community both as being comparable to an important coastal state and as having one of the largest distant water fleets, it is of fundamental interest to the Community to secure rational management of fisheries at the high seas and within EEZs taking into account the provisions of the Convention on the Law of the Sea. Those provisions envisage not only a balance between the different fishing interests but also a balance between the rights and obligations of the Parties.

Various initiatives with the aim of changing this balance can be expected not only within regional fisheries organizations but also within the United Nations and, in particular, in connection with the United Nations Conference on Environment and Development (UNCED). In these negotiations the Community must defend the present balance of the Convention on the Law of the Sea with respect to the conservation and rational management at marine living resources, and reject tendencies by the coastal states of extending their jurisdiction beyond 200 miles ("creeping jurisdiction"). The Community should, on the other hand, support efforts to strengthen the various mechanisms with a view to obtaining better conservation and a more rational exploitation of the living resources of the high seas.

In order that the necessary management measures may adequately take into account the characteristics of the fisheries concerned, the Community should support the creation of regional fisheries organizations and the strengthening of the existing ones. Only in cases of truly worldwide problems or in cases where no appropriate regional fisheries organisation exists should solutions be found in a global content such as within the United Nations.

The starting point for the Community must be the conservation and rational exploitation of fish stocks whether within established EEZ or on the high seas. The basis for both must be the best scientific advice available; whenever such scientific advice is applicable to fisheries of interest to several parties the recommendations should be formulated by international bodies where all interested parties can be represented; where such advice is insufficient the Community should be prepared to cooperate in having it improved.

The scientific research and the ensuing management measures must aim at producing the maximum sustainable yield and in the case of straddling stocks secure consistency in the management within the EEZ and in the area adjacent to the zone.

The Community should actively support the introduction, as appropriate, through international agreement, of the same kind of measures for the high seas as have been accepted in Community waters. In addition to quantitative restrictions such measures as closed areas and closed seasons should be considered. With a view to monitor more precisely the effort engaged license systems should be developed for fishing on the high seas. In case of depleted stocks the introduction of effort limitation schemes should not be ruled out. Structural policies should be strengthened to ensure that the Community's fishing fleet is of a size which is appropriate for the rational exploitation of legitimate fishing possibilities on the high seas. There is also room for wider use of technical conservation measures.

There is a need for increased enforcement of regulations for fisheries on the high seas. The Community should be prepared to consider new measures such as placing observers on board fishing vessels or applying modern technology such as data collection by satellite. International joint inspection schemes such as the one set up under NAFO should be introduced also for other areas of the high seas. In order that the costs of running such schemes be distributed more fairly between the participating parties a mechanism should be developed to ensure that the financial contribution to the scheme is proportional to the respective catches in the area.

The Community should also contemplate measures to be taken either unilaterally or in cooperation with other States with a view to ensuring that nationals of its Member States comply with the obligations for the conservation of the living resources of the high seas. This may include measures with respect to nationals of Member States who are involved in the operation of vessels flying the flag of third States. Furthermore, it is essential that Member States take appropriate action against their fishermen who have been found to have contravened the regulations in force.

The Community should also take the initiative of proposing the creation of dispute-settlement procedures along the lines of to the provisions of the Convention on the Law of the Sea. Pending the entry into force of that Convention, one should have recourse to possibilities existing under regional organisations such as NAFO as well as to other appropriate procedures for the settlement of this type of disputes. This strategy would serve to prevent the abuse of rights, and ensure the fulfillment of obligations, contained in the Law of the Sea, whilst providing for an alternative solution to the confrontational initiatives of some coastal states.

A N N E X

THE UN CONVENTION ON THE LAW OF THE SEA
THE BASIC APPROACH
TO THE CONSERVATION AND MANAGEMENT OF LIVING RESOURCES

1) Introduction

The UN Convention on the Law of the Sea (UNCLOS) establishes different regimes for the regulation of ocean space which are set forth on a spatial basis rather than on a resource-orientated basis. The most important parts of UNCLOS distinguish therefore between areas over which coastal States have sovereignty or jurisdiction and those areas beyond the limits of national jurisdiction.

The EEC and all Member States, except the United Kingdom and Germany, have signed UNCLOS. The Convention has however not been ratified by any of those signatories.

At present, UNCLOS is still lacking 9 of the required 60 ratifications for its entry into force (cf. Article 308 of UNCLOS) and therefore it cannot yet be regarded as binding treaty law.

2) The concept of the exclusive economic zone

Beyond territorial waters, UNCLOS allows the creation of an exclusive economic zone (EEZ) up to 200 nautical miles from the base lines. In this zone the coastal State is entitled to claim and to exercise certain exclusive rights for the purpose of economic advantage, notably rights with regard to fishing and exploitation of non-living resources, as well as concomitant limited jurisdiction in order to realise those rights.

The coastal State's rights in the EEZ are limited in the sense that they are conferred only for specific purposes. In so far as the coastal State has jurisdiction to prescribe and to enforce, its powers are exclusive. The exclusive nature of the coastal State's rights is ubiquitous as the relevant provisions of UNCLOS do not differentiate according to whether the EEZ portion of the natural resources which is entrusted to the coastal State for exploitation consists of living or non-living resources or whether it is to be found in the waters superjacent to the sea-bed, on the sea-bed or in its subsoil.

Furthermore, UNCLOS provides only for very exceptional access rights which are to be granted by the coastal State to neighbouring land-locked and geographically disadvantaged States as for the part of the resources of the zone that the coastal State does not exploit. Consequently a right of access of other States to the resources of the EEZ is, as a matter of principle, excluded but the coastal State may approve such activities. In giving access to other States to its EEZ, the coastal State shall, in accordance with Article 62 of UNCLOS, take into account all relevant factors, including, inter alia, the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

The EEZ does not form part of the high seas, but it is generally accepted that, without prejudice to the special rights of the coastal State, the traditional freedoms of the high seas have to be maintained within it. Moreover it follows from Article 56 (2) UNCLOS that in exercising its rights in the EEZ, the coastal State is bound to pay due regard to the rights and obligations of other States. Thus the provisions of UNCLOS pertaining to the EEZ illustrate the concept of the balance of rights and duties which underlines the whole body of rules contained in UNCLOS.

3) Beyond the limits of the EEZ

Beyond the limits of the EEZ, the determination of which provisions of UNCLOS are applicable to a given activity depends upon the site of the activity involved.

Activities on the surface and in the water column are governed by the provisions on the high seas. These generally follow customary international law allowing the freedoms of the high seas and imply, notably with regard to fishing, a right which is available to all States to have the opportunity to share the resources of the high seas.

4) Transboundary resources

As for fishing, the most important example of the regulation of a transboundary resource deals with stocks occurring both within the EEZ and in an area beyond and adjacent to it ("straddling stocks"). Pursuant to Article 63 (2) of UNCLOS, the coastal State and States fishing for such stocks on the high seas are under an obligation to seek to agree upon the measures necessary for the conservation of these stocks in the adjacent area. This appears to mean that, with regard to management of the portion of the stocks occurring outside the EEZ, the coastal State has a right to participate but is not entitled to extend claims of property or sovereign rights over this part of the stock.