



## FISHERIES ON THE HIGH SEAS

Until the middle of this century, the traditional international law of fisheries provided for a territorial sea of three nautical miles and the remainder of the oceans, the high seas, for which there was freedom of fishing. Although the Convention retains freedom of fishing on the high seas,<sup>1</sup> the results are considerably different.

Of greatest impact is the fact that the coastal states have the right to establish an exclusive economic zone which extends for 200 nautical miles from the coast<sup>2</sup> within which they have fishing rights.<sup>3</sup> About 90% of the commercially exploitable fish stocks can be found in such zones if they are universally established.

Consequently, the Convention requires measures for the high seas supplementary to those for the exclusive economic zone. These measures can be summarized as conservation measures implemented by the state for its nationals<sup>4</sup> and measures for co-operation between the states for conservation and management of resources in the high seas.<sup>5</sup> The guidelines which apply for determining allowable catch and establishing conservation measures are similar to those for the coastal states in their exclusive economic zones;<sup>6</sup> furthermore, such measures must avoid the discrimination of fishermen of any other state.<sup>7</sup> States must also have due regard for stocks and species which move from coastal state zones to the high seas and back and consider whether these stocks are subject to coastal state conservation and management measures<sup>8</sup>. In particular, coastal states and states concerned with fishing on the high seas are to co-operate in respect to highly migratory species<sup>9</sup> listed in Annex I.

The limited resources of the high seas, together with the various measures to be taken, make it essential to reach a balance between the conflicting principles of freedom of fishing and cooperative conservation and management of the resources of the high seas.<sup>10</sup> The Convention provides for the establishment of subregional or regional fisheries organizations to achieve this end.<sup>11</sup>

## FREEDOM OF FISHING

### ARTICLE 87, SUBPARAGRAPH 1(e)

subject to

State treaty obligations (Article 116, Subparagraph (a))	High Seas Fishing Provisions Articles 117-120 (Article 116, Subparagraph (c))	Rights, duties and Interests of coastal states (Article 116, Subparagraph (b))
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<sup>1</sup> Art. 87, Subpara. 1(e)

<sup>2</sup> Art. 57

<sup>3</sup> Art. 56, Subpara. 1 (a)

<sup>4</sup> Art. 117, 119, 120

<sup>5</sup> Art. 117, 119, 120

<sup>6</sup> Art. 119, 61

<sup>7</sup> Art. 119, Para. 3

<sup>8</sup> Art. 116, Subpara. (b); 63, Para. 2; 64-67

<sup>9</sup> Art. 64

<sup>10</sup> Art. 117

<sup>11</sup> Art. 118

## Measures of Fisheries States

CO-OPERATION

CONSERVATION

*Article 117*

- As necessary for the conservation of living resources

*Article 118*

- In conservation and management
- Negotiations between states where nationals exploit identical or different living resources in the same area
- Establish subregional or regional organizations

*Article 119, Paragraph 2*

- Exchange data with states concerned

*Articles 120, 65*

- States together with international organizations

*Article 64, Annex I*

- Co-operation between flag state and coastal state in respect to highly migratory species

*Article 119*

- In determining the allowable catch (alone or with other states) and establishing other conservation measures the states are to
- use the best scientific evidence
  - consider relevant factors maintaining and restoring populations of stocks
  - take due regard for developing countries

- take into account international standards, whether subregional, regional, or global
- avoid serious treat to species
- exchange data and information
- avoid in form or fact discrimination of fisherman from other states

*Article 120, 65*

- May restrict the exploitation of marine mammals more strictly the provided by Convention

*Article 63, Paragraph 2*

- States concerned are to seek, either directly or through organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area (*here: high seas*)
- Articles 65-67*
- Marine mammals
  - Article 65
  - Anadromous stocks
  - Article 66
  - Catadromous species
  - Article 67

*Article 64, Annex I*

- Co-operation required in respect to highly migratory species