



## COASTAL STATE FISHERIES

Aside from possible exploration of oil fields, the most valuable resource for coastal states in their exclusive economic zone is the sovereign right of fishing<sup>1</sup>. The fishing rights within the exclusive economic zone are almost exclusive and are nearly equivalent to total sovereignty. The general obligation to conserve and the right to utilize<sup>2</sup> the living resources as well as the obligation to invite countries which traditionally fish there<sup>3</sup> or are land-locked or geographically disadvantaged states<sup>4</sup> to participate in fishing only if there is a surplus of catch and agreements or arrangements have been reached<sup>5</sup> are not conditions under which fishing rights of other states can easily be exercised. In addition, the coastal state need not accept compulsory dispute settlement procedure in many substantive fishing matters and is subject to compulsory conciliation<sup>6</sup> in only three instances. Nonetheless, the coastal state has to exercise its rights in the light of the general provision of "good faith and non-abuse of rights"<sup>7</sup>.

Conservation includes the determination by the coastal state of the allowable catch<sup>8</sup>, which is to be based on the best scientific evidence available; where appropriate, the coastal state is to co-operate with the competent international organization to avoid over-exploitation<sup>9</sup>. Measures must be designed to restore and maintain the population<sup>10</sup> and must take into account the effects of harvesting on associated or dependent species in order to prevent the endangering of such species<sup>11</sup>. Where the same stocks or associated stocks occur in the exclusive economic zones of two or more states or in the high seas as well as the zones, the states concerned are to seek to co-operate to ensure that the species is conserved and developed<sup>12</sup>.

For particular species, the coastal state must especially emphasize co-operation when exercising its rights<sup>13</sup>. Primary responsibility for anadromous stocks and for catadromous species rests with the states where the stocks originate<sup>14</sup> or spend the greater part of their life cycle<sup>15</sup>. In general, harvesting of these species is to take place only within the exclusive economic zone boundaries of the state of origin<sup>16</sup>.

The coastal state is to aim for optimum utilization of the resources in its zone<sup>17</sup> and, in particular, to allow land-locked, geographically disadvantaged, and developing states<sup>18</sup> to participate in the surplus its national capacity cannot harvest<sup>19</sup>. The coastal state is to give land-locked states and geographically disadvantaged states preference<sup>20</sup>. Even if the capacity of the coastal state approaches a point which would enable it to harvest the entire allowable catch, arrangements must be established permitting developing land-locked states and geographically disadvantaged states to participate in the harvest<sup>21</sup>. These provisions do not apply only in the event

1 Art. 56, Subparagraph 1 (a)

2 Art. 61, Para. 2-3; Art. 62; Para. 1

3 Art. 62, Para. 3

4 Art. 62, Para. 3 ; Art. 69, Art. 70

5 Art. 62, Para. 2-3

6 Art. 297, Para. 3

7 Art. 300

8 Art. 61, Para. 1

9 Art. 61, Para. 2

10 Art. 61, Para. 3

11 Art. 61, Para. 4

12 Art. 63; 64; 116(b)

13 Art. 64-67

14 Art. 66, Para. 1

15 Art. 67, Para. 1

16 Art. 66, Para. 3; Art. 67, Para. 2

17 Art. 62, Para. 1

18 Art. 62, Para. 3

19 Art. 62, Para. 2

20 Art. 69, Para. 3; Art.

Art. 70, Para. 4

21 Ibid

22 Art. 71

23 Art. 62, Para. 2; Art. 72

24 Art. 62, Para. 4-5

25 Art. 62, Subpara. 4 (k)

26 Art. 73, Para. 2

27 Art. 73, Para. 3

that the coastal state depends overwhelmingly on the catch for its own economy<sup>1</sup>. Participation by other states in the harvest of living resources, if not regulated by agreement<sup>2</sup>, is to be regulated by laws and regulations of the coastal state<sup>3</sup>, including enforcement procedure<sup>4</sup>. Vessels arrested for violation of coastal state fishing laws and regulations for the fulfilment of this state's obligations must be released upon payment of reasonable security<sup>5</sup>. Imprisonment or corporal punishment of crew is not permitted<sup>6</sup>.

## FISHERIES IN THE EXCLUSIVE ECONOMIC

### *I. Conservation and Utilization*

<i>Conservation (Article 61)</i>	<i>Utilization (Article 62)</i>
<p>includes</p> <p>(1) Determination of allowable catch on the basis of</p> <ul style="list-style-type: none"> <li>- best scientific evidence available</li> <li>- duty to maintain and restore stocks</li> <li>- avoidance of serious threat to species</li> <li>- where appropriate, co-operation with international organizations</li> </ul> <p>(2) Available scientific information is to be contributed and exchanged</p> <ul style="list-style-type: none"> <li>- through international organisations</li> <li>- to states concerned -</li> </ul> <p>(3) For stocks/species not only in one economic zone, co-operative efforts required (Articles 63, Paragraph 2; 64-67, 116, Subparagraph (b))</p> <p><i>High Sea Fisheries</i> (Article 116)</p> <ul style="list-style-type: none"> <li>- Fisheries on the high seas must observe rights, duties and interests of coastal states</li> </ul>	<p>Coastal state is to</p> <p>(1) Promote, without prejudice to conservation, optimum utilization</p> <p>(2) Determine the capacity of its fish industries</p> <p>(3) Allow, "harvesting capacity approaches catch allowance, developing land-locked/ geographically disadvantaged states to participate (Articles 62, Paragraph 3; 69, Paragraph 4; 70, Paragraph 4; 71)</p> <p>(4) Allow, if there is surplus in allowable catch, traditional fisheries, land-locked and geographically disadvantaged states to participate (Articles 62, Paragraph 3, 69; 70, 72)</p> <p>(5) Determine the conditions for fishing by other states (Article 62, Paragraph 4)</p> <p>(6) Release arrested vessels upon payment of security; imprisonment and corporal punishment of crew not permitted (Article 73)</p>

### *II. Measures in Regard to Stocks and Species*

TYPE	GENERAL	THIRD STATES	INTERNATIONAL ORGANIZATIONS
Stocks and associated species (Article 63)		Coastal state is to co-operate with states concerned	Involvement of sub-regional or regional organizations
Highly migratory species (Article 64)	Species designated in Annex I	Co-operation directly with states concerned	(1) With existing organizations (2) Otherwise establish organization
Marine mammals (Article 65)	Stricter measures than in Part V may be taken	States are to co-operate	Work through appropriate organizations, especially for cetaceans

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Anadromous stocks (Article 66)	States where stock originate responsible for stock	(1) Fishing primarily reserved for responsible state (2) Co-operate with states concerned	Involvement where appropriate
Catadromous species (Article 67)	State where species spends greater part of life cycle responsible	(1) Fishing primarily reserved for responsible state (2) Co-operation when fish as juveniles or mature migrate to other zones	None
Sedentary species (Articles 68, 77)	Are treated as natural resources of the sea-bed	None	None