

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.II/L.9
4 August 1972

Original: ENGLISH



COMMITTEE ON THE PEACEFUL USES OF THE
SEA-BED AND THE OCEAN FLOOR BEYOND THE
LIMITS OF NATIONAL JURISDICTION

SUB-COMMITTEE II

UNITED STATES REVISED
DRAFT FISHERIES ARTICLE

REGULATORY AUTHORITY

I. Authority to regulate the living resources of the high seas shall be determined by their biological characteristics and such authority shall be exercised so as to assure their conservation, maximum utilization and equitable allocation.

II. COASTAL AND ANADROMOUS LIVING RESOURCES

The coastal State shall regulate and have preferential rights to all coastal living resources off its coast beyond the territorial sea to the limits of their migratory range. The coastal State in whose fresh or estuarine waters anadromous resources (e.g. salmon) spawn shall have authority to regulate and have preferential rights to such resources beyond the territorial sea throughout their migratory range on the high seas (without regard to whether or not they are off the coast of said State).

A. The term "coastal resource" refers to all living resources off the coast of a coastal State except the highly migratory species listed in Annex A,* and anadromous resources.

B. The coastal State may annually reserve to its flag vessels, in accordance with this article, that portion of such coastal and anadromous resources as they can harvest.

C. Such coastal and anadromous resources which are located in or migrate through waters adjacent to more than one coastal State shall be regulated by agreement among such States.

* Annex A not attached.

III. HIGHLY MIGRATORY OCEANIC RESOURCES

The highly migratory oceanic resources listed in Annex A shall be regulated by appropriate international fishery organizations.

A. Any coastal State party, or other State party whose flag vessels harvest or intend to harvest a regulated resource, shall have an equal right to participate in such organizations.

B. No State party whose flag vessels harvest a regulated resource may refuse to co-operate with such organizations. Regulations of such organizations in accordance with this Article shall apply to all vessels fishing the regulated resources regardless of their nationality.

C. In the event the States concerned are unable or deem it unnecessary to establish an international organization the resources shall be regulated by agreement or consultation among such States.

CONSERVATION PRINCIPLES

IV. In order to assure the conservation of living marine resources, the coastal State or appropriate international organization shall apply the following principles:

A. Allowable catch and other conservation measures shall be established which are designed, on the basis of the best evidence available, to maintain or restore the maximum sustainable yield, taking into account relevant environmental and economic factors.

B. For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. Conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Article, of any disagreement as to their validity.

UTILIZATION AND ALLOCATION

V. In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles:

A. The coastal State may reserve to its flag vessels that portion of the allowable annual catch they can harvest.

B. The coastal State shall provide access by other states, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities:

(1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C;

(2) other States in the region, particularly landlocked States and other States with limited access to the resources, with whom joint or reciprocal arrangements have been made; and

(3) all States, without discrimination among them.

C. Whenever necessary to accommodate the allocations to the coastal States traditional fishing may be reduced, without discrimination among those States that have traditionally fished for a resource, in the following manner:

(Formula to be negotiated within Subcommittee II which takes into account the interests of traditional fishing States.)

States whose fishermen harvest a resource under regulation by a coastal State may be required, without discrimination, to pay reasonable fees to defray their share of the cost of such regulation.

NOTIFICATION CONSULTATION

VI. The coastal State shall give to all affected states timely notice of any conservation, utilization and allocation regulations, prior to their implementation, and shall consult with other States concerned.

TECHNICAL ASSISTANCE

VII. An international register of independent fisheries experts shall be established and maintained by the Food and Agriculture Organization of the United Nations.* Any developing State party to this convention requiring assistance may select an appropriate number of such experts to serve as a fishery management advisory group to that state.

ENFORCEMENT

VIII. Actions under this paragraph shall be taken in such a manner as to minimize interference with fishing and other activities in the marine environment.

A. Coastal State - the coastal state may inspect and arrest vessels for fishing in violation of its regulations. The coastal State may try and punish vessels for fishing in violation of its regulations, provided that where the state of nationality of a vessel has established procedures for the trial and punishment of violations of coastal State fishing regulations adopted in accordance with this article, an arrested vessel shall be delivered promptly to duly authorized officials of the state of nationality for trial and punishment, who shall notify the coastal state of the disposition of the case within six months.

B. International fisheries organization - Each State party to an international organization shall make it an offence for its flag vessels to violate the regulations adopted by such organization in accordance with this article. Officials authorized by the appropriate international organization, or of any State so authorized by the organization, may inspect and arrest vessels for violating the fishery regulations adopted by such organizations. An arrested vessel shall be promptly delivered to the

* The Sub-Committee may wish, in accordance with paragraph 13 of General Assembly Resolution 2750 C (XXV), to invite the comments of the Director-General of the Food and Agriculture Organization of the United Nations on the ability of the Organization to assume such responsibilities.

duly authorized officials of the flag State. Only the flag State of the offending vessel shall have jurisdiction to try the case or impose any penalties regarding the violation of fishery regulations adopted by international organizations pursuant to this article. Such State has the responsibility of notifying the enforcing organization within a period of six months of the disposition of the case.

DISPUTES SETTLEMENT

IX. Any dispute which may arise between States under this article shall, at the request of any of the parties to the dispute, be submitted to a special commission of five members unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations. The commission shall proceed in accordance with the following provisions.

A. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within two months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon request of any State party to the dispute, be named by the Secretary General of the United Nations, within a further two-month period, in consultation with the States involved and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

B. Any State party to proceedings under these articles shall have the right to name one of the nationals to sit with the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

C. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute failing agreement by the parties on this matter.

D. Pending the final award by the special commission, measures in dispute relating to conservation shall be applied; the commission may decide whether and to what extent other measures shall be applied pending its final award.

E. The special commission shall render its decision, which shall be binding upon the parties, within a period of five months from the time it is appointed unless it decides, in the case of necessity to extend the time limit for a period not exceeding two months.

F. The special commission shall, in reaching its decision, adhere to this article and to any agreements between the disputing parties implementing this article.

OTHER USES

X. The exploitation of the living resources shall be conducted with reasonable regard for other activities in the marine environment.

EXISTING CONVENTIONS

XI. The provisions of this article may be applied to fishery conventions and other international fishery agreements already in force.