



International legal framework on marine fishery exploitation: Overview issues and recommendations to improve the enforcement and management' effectiveness

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Abstract

In the trend of going to the sea, mastering the sea, and expanding living space, the exploitation and protection of marine resources have become a global strategic issue. Especially in the context that land resources are increasingly depleted, going to the sea and searching for and exploiting marine resources is the last solution to solve human food needs. This has led to overexploitation, environmental pollution, degradation of marine resources, loss of biodiversity, and depletion of fishery resources. In order to provide a more scientific basis for effective and sustainable fishing at sea, the article focuses on an overview of the international legal framework on this issue, pointing out the limitations and inadequacies that have existed, thereby proposing solutions to improve international law and international law enforcement mechanisms and managements' effectiveness on marine fishery exploitation.

Keywords: Marine fishery exploitation, international law, enforcement mechanisms, managements' effectiveness, solutions

Introduction

Fishing, as explained by the Food and Agriculture Organization of the United Nations (FAO), means the capture of aquatic organisms in marine, coastal, and inland areas ^[5]. As a long-standing activity, marine fishing is important to many countries around the world. This activity not only plays an important role in global food security and nutrition, contributing to global economic growth, poverty reduction, and creating employment opportunities in rural areas, but is also one of the important contents of Sustainable Development Goal No. 14 issued by the United Nations in 2015. Accordingly, the contents of Sustainable Development Goal No. 14 related to fisheries activities include: protecting and restoring ecosystems; sustainable fishing; ending subsidies that contribute to overfishing; supporting small-scale fishermen; and enforcing international maritime law ^[12].

Although it plays a particularly important role in the sustainable development of countries, currently, marine fisheries exploitation is facing a series of difficulties and challenges, typically: (i) Land resources are increasingly dwindling, forcing countries to promote maximum exploitation of marine resources; (ii) Aquatic resources are increasingly seriously reduced and are likely to be depleted in the future; (iii) The global population explosion and animal epidemics, marine pollution and global climate change are currently threatening the habitat of aquatic species; (iv) Excessive, indiscriminate or illegal fishing activities in both marine areas under national jurisdiction and the high seas have caused a crisis and depletion of aquatic resources; (v) Anarchy in the exploitation of aquatic resources on a national and international scale has been giving rise to fierce competition for aquatic resources. In addition, many countries are also subject to "yellow cards" and "red cards" from the European Commission, causing

difficulties for those countries' seafood export activities. The shortage of high-quality labor in fisheries exploitation has been common in many localities; infrastructure does not meet industry development requirements; investment resources are limited; and repair and maintenance work has not received much attention from the locality. Products from mining ships have low application levels of scientific and technical advances, causing low labor productivity, post-harvest losses, and high prices, affecting the competitiveness of products in the market.

In the face of this situation, international law needs to play its role as an effective tool for regulating international relations arising from marine fishery exploitation. In order to do this, the study of the international legal system on marine fishery exploitation, identifying existing limitations and imperfections, thus proposing additional solutions, finalizing regulations, and improving the effectiveness of the enforcement of international law on maritime fisheries exploitation, is one of the indispensable requirements.

Methodology

To clarify the research content, the author used the approaches of dialectical materialism, the Mac-Lenin perspective, Ho Chi Minh's ideology, and the interdisciplinary scientific approach of economics, legal science, and political science. The data information in the article is taken from primary data and secondary data, of which secondary data is the main one.

The article uses many different methods, including data collection methods, desk research methods, statistical methods, and meta-analysis methods. In particular, the data collection method is used to collect and compile primary and secondary data related to international law on marine fisheries exploitation. The desk research method is used to preliminary evaluate available information in statistical

documents, policy documents, laws, books, newspapers, magazines, theses, dissertations, and scientific research topics, of domestic and international agencies, organizations, and individuals related to the international legal framework on marine fisheries exploitation as well as the limitations and inadequacies of this legal system. Statistical methods are used to systematize international treaties, international practices, and resolutions of international organizations, international precedents, and national legal documents on marine fisheries exploitation. Analysis and synthesis methods are used to explain basic regulations, restrictions, and imperfections and suggest solutions to complete international law on marine fishery exploitation.

Results and Discussions

Overview of the international legal framework on marine fishery exploitation

International law on the marine fishery exploitations is a holistic system of principles and norms of international law established by the entities of international law (mainly states) on the basis of agreements or through customary practice, regulating the relations arising between the subjects of international legislation in the field of marine fishery exploitation.

Overall, the international legal framework for marine fishery exploitation includes

First, the international treaties on marine fishery exploitation

1. Typical global international treaties related to marine fisheries exploitation include: The 1958 Geneva Convention on Fishing and the Conservation of Living Resources of the High Seas (CFCLR, 1958); United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982); Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas, 1993; 1995 United Nations Agreement on Amphibian and Migratory Fish Stocks; FAO Code of Conduct for Responsible Fisheries 1995; Reykjavik Declaration on Responsible Fisheries for Marine Ecosystems of 2001; FAO Agreement on Port State Measures to Prevent, Deterrent and Eliminate IUU Fishing, 2009; FAO's 2001 International Plan of Action (IPOA), including: International Plan of Action to Reduce by catch of Seabirds (IPOA - Seabirds) Action Plan International Action for the Conservation and Management of Sharks (IPOA – Sharks), International Plan of Action on Fishing Capacity (IPOA – Fishing Capacity) ^[6], Action Plan international community to prevent, prevent and eliminate illegal, unreported and unregulated fishing (IPOA – IUU Fishing) ^[7].

2. Regional international treaties on marine fisheries exploitation, typically: Convention on Northeast Atlantic Fisheries of 1946; International Convention for the Regulation of Whaling Operations, 1946; Northwest Atlantic Fisheries Convention of 1949; 1948 Agreement Establishing the Indo-Pacific Fisheries Council; 1949 Agreement Establishing the Mediterranean Fisheries Council; Inter-American Tropical Mackerel Commission Convention of 1949; North Pacific Fisheries Convention of 1952; Convention Establishing the International Commission

for the Conservation of Pan-American Mackerel, 1966; Convention on the Conservation and Management of Pollock Fish Stocks in the Central Beerring Sea, 1994; Convention on the Conservation and Management of Bluefin Mackerel, 1994;

3. Other multilateral international treaties: In addition to the above multilateral international treaties, many international treaties in other fields (such as marine environment, fisheries crime, etc.) also have provisions related to marine fisheries exploitation, such as the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) in 1972; the Convention on the Conservation of Migratory Species (CMS) in 1979; the Convention on the Conservation of Biological Diversity (CBD) of 1992; the Convention relating to work in the fishing sector (ILO Convention No. 188) of 2007.

4. Bilateral international treaties: In addition to signing multilateral international treaties, countries also sign many bilateral agreements, thereby establishing appropriate mechanisms for joint exploitation and management and preserving aquatic resources in the seas, typically: Agreement between Finland and the Soviet Union on seal fishing in 1959; Agreement on fishing between Korea and Japan in 1965; Nongovernmental Fisheries Agreement between the Japan-China Fisheries Enterprise Association and the China Fisheries Association in 1955, 1963, and 1965; Fisheries Agreement between the Philippines and Indonesia in 1974; 1976 United States-Mexico Fisheries Agreement; Korea-New Zealand Fisheries Agreement of 1978; Fisheries Agreement in addition to the Memorandum of Understanding between Indonesia and Australia on the traditional fishing rights of Indonesians in Australian waters of 1974 and 1986; Vietnam-China Fisheries Cooperation Agreement in 2000; Fisheries Agreement between Korea and China dated June 30, 2001; China-Indonesia Fisheries Trade Agreement in 2008;...

Second, other sources of law: In addition to international treaties and international precedents, international law on marine fishing also includes

International case law on maritime exploitation: Currently, international judicial institutions such as the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS) and the Court of Arbitration Annex VII of UNCLOS 1982 have been playing an important role in building regulations of international law on fisheries exploitation at sea through decisions on issues related to fisheries, such as: fisheries jurisdiction; maritime delimitation; conservation and management of fish resources; Typical case laws that can be mentioned include: Anglo-Norwegian Fisheries Case (United Kingdom and Norway) in 1951 at the ICJ; Disputes over fisheries jurisdiction (United Kingdom v. Iceland in 1974; Federal Republic of Germany v. Iceland in 1974; Spain v. Canada in 1998) at the ICJ; Southern bluefin tuna case (New Zealand v. Japan; Australia v. Japan) in 2000 at the Arbitral Tribunal Annex VII of UNCLOS 1982 and ITLOS; Antarctic Whaling Case (Australia and Japan: New Zealand intervened) 2014 at the ICJ; “Camouco” case (Panaba v.

France) on quick ship release at ITLOS in 2000; Request for Advisory Opinion submitted by the Subregional Fisheries Commission (SRFC) in 2015 at ITLOS^[13]; The East Sea dispute between the Philippines and China at the Arbitration Court Annex VII of UNCLOS 1982 (2013-2016);

Resolutions of international organizations

- **United Nations resolutions:** Resolution No. A/RES/55/7 of the United Nations General Assembly on the Oceans and the Law of the Sea dated October 30, 2000; Resolution A/RES/44/225 dated December 22, 1989; Resolution A/RES/45/197 dated December 21, 1990; Resolution A/RES/46/215 of December 20, 1991 of the United Nations General Assembly on large-scale pelagic fishing and its impact on living marine resources in the world's seas and oceans;...
- **EU Resolution:** European Council Resolution No. 1093/94 dated May 6, 1994, regulates the conditions for third country fishing vessels to discharge goods at ports of EU countries; Resolution No. 1447/1999 dated June 24, 1999, stipulates measures for violations of the Common Fisheries Policy; Resolution No. 2847/93 of 2005 establishing a control system applicable to the Common Fisheries Policy; Official Strategy on IUU Prevention 2007; European Council Regulation No. 1005/2008 of September 29, 2008 establishing a community system to prevent, prevent, and eliminate IUU fishing;
- **ASEAN resolutions:** ASEAN Regional Action Plan 2007; 2016 Joint Statement between ASEAN and SEAFDEC on Regional Cooperation to Address IUU Fishing and Enhancing the Competitiveness of ASEAN Fishery Products; 2017 Declaration of the ASEAN Regional Forum on Cooperation to Prevent, Restrict, and Eliminate IUU Fishing;

National laws

In addition to the international legal documents and international precedents mentioned above, national law is also an important source of international law on marine fisheries exploitation. To date, most coastal countries have issued many legal documents on the exploitation and conservation of aquatic species, such as: Vietnam Fisheries Law 2017; Decree No. 26/2019/ND-CP of the Government, dated March 8, 2019, detailing a number of articles and measures to implement the Fisheries Law; Decree No. 58/2017/ND-CP dated May 10, 2017 of the Government detailing a number of articles of the Vietnam Maritime Code on the management of maritime activities; Decision No. 1090/QD-TTg dated September 19, 2022, of the Prime Minister on approving the national program to develop effective and sustainable fisheries exploitation in the period 2022–2025 with an orientation to 2030; Decision No. 643/QD-TTg dated June 5, 2023 of the Prime Minister approving the Project to improve state management capacity on Fisheries; Decision No. 757/QD-TTg of the Prime Minister dated June 4, 2020 on approving the Plan for implementing the Agreement on Port State Measures to prevent, stop, and eliminate illegal fishing that is legal, unreported, and unregulated by the Food and Agriculture Organization of the United Nations (FAO) until 2025; ...

Basic provisions of international law on marine fishery exploitation

An overview of the international legal system on marine fishery exploitation can show that the content of international law on maritime fisheries exploitation focuses on the following key issues^[3]

Firstly, the rights and obligations of states in marine fisheries

Rights and obligations of States under UNCLOS 1982

For coastal states: Depending on the waters in which the coastal state has different rights and obligations, for example, In the EEZ, as provided for in Article 56, Article 61, and Article 62 of UNCLOS 1982, coastal states have the following rights: (i) Sovereign rights in exploration, conservation and management of natural, living or non-living resources; (ii) The right to preserve and exploit marine biological resources through the establishment of fishing volumes, the implementation of appropriate measures for the conservation and management of marine resources in the EEZ, the identification of exploitability, the determination of surplus fish, allowing which State to be authorized to catch surplus fishing in its EEZ on the basis of conditions and modalities established by the coastal State; (iii) The right to catch fish stocks in breeding rivers in waters within the external boundaries of the EEZs, except where the application of this provision may result in economic disruption for a State other than the State of origin; (iv) The right to place observers or trainees on foreign fishing vessels and vehicles; (v) To give foreigners access to surplus fish resources; (vi) Adoption of laws and regulations on foreign access in accordance with the provisions of UNCLOS 1982 (the distribution of surplus fish in good faith, in conformity with the basic rules of 1982, the right to grant licences to fishermen or fishing vessels and means of fishing, the establishment of conditions for and amendment of those conditions in respect of foreign ships); (viii) The power to take all necessary measures, including investigation, inspection, arrest and prosecution, to ensure respect for the laws and regulations which they have adopted in accordance with the Convention^[2].

On the continental shelf, for settlement creatures, coastal states also have sovereign rights to explore and exploit these resources. This right is of a privileged nature, meaning that coastal states, whether they do not explore or exploit, have no right to carry out such activities without the express consent of that state.

The rights and obligations of states without sea or geographically disadvantaged: In order to achieve a certain balance of interests in fisheries resources among states, UNCLOS 1982 establishes the rights and obligations of states without sea or geographically disadvantaged areas in the EEZ of coastal states. Accordingly, states without sea or geographical disadvantage have the right to: (i) access to the surplus fish resources of the coastal state; (ii) to participate in the exploitation of biological resources in the EEZs of coastal states, taking into account the extent to which the coastal state, when allowing other states to exploit the biological resource in its EEZ, has considered the need to minimize the harm to fishermen's communities as well as economic turmoil in states whose nationals normally engage in fishing in the area.

In the case of developed land-locked states, these states are only entitled to participate in the exploitation of biological resources in the EEZs of coastal states in the same sub region or region, taking into account the extent to which the coastal state, when allowing other states to exploit biological resource resources in its EEZ, has considered the need to minimize the harm to fishermen's communities as well as the economic disruptions in states whose nationals are still engaged in fishing in the region.

▪ **The rights and obligations of States at Sea:** In accordance with Article 87, Point E, and Article 116 of UNCLOS 1982, in the seaboard, all States enjoy the right to freedom of the sea, including the freedom to exploit fisheries. This activity is governed by the laws of the national flag of the vessel and by the provisions of international law. UNCLOS 1982 also provides for the obligation of states to identify, on their own or in cooperation with other states, the necessary measures to preserve the biological resources of the international seas, including fish resources.

The rights and obligations of States under the Agreement to promote compliance with international management and conservation measures of fishing vessels at sea since 1993

In accordance with the Agreement on the Promotion of Compliance with International Measures for the Management and Conservation of Fishing Ships at Sea since 1993, States Parties have the right: (i) to grant fishing permits to vessels; (ii) to adopt provisions on enforcement measures and penalties applicable to fishing activities by vessels to ensure compliance with the provisions of this Agreement, including refusal, suspension, and withdrawal of fishing licenses by vessel.

In addition to the above rights, States parties are obliged to: (i) To take measures to ensure that vessels flying their flag do not undertake any activities that would undermine the effectiveness of the provisions on international fisheries management and conservation measures; (ii) Licensing vessels flying the flag for fishing activities at sea; (iii) Ensure that all licensed vessels flying the flag are recorded with information on fishing activities, routes and fishing ports in which the vessel is anchored; (iv) Strengthen international cooperation and exchange of information relating to fishing vessels operating in the international maritime area through the database system managed by FAO;

Rights and obligations of States under the 1995 FAO Code of Conduct on Responsible Fisheries

▪ **For coastal states:** in areas under their jurisdiction, states need to: (i) identify the contents of exploitation and fishing as well as establish the necessary arrangements towards a responsible fishing profession; (ii) establish and maintain a set of records relating to fishing licenses and permitted fish stocks, as well as information related to fishermen's perceptions and actual fishing paths. With regard to waters under the jurisdiction of other countries, states need to ensure that vessels flying their flag are fishing in accordance with fishing agreements and have a fishing record for actual monitoring, issuing relevant legislation to monitor these activities closely.

In international waters, states need to cooperate with each other and participate in regional fisheries management organizations; establish effective mechanisms for monitoring and inspection of actual fisheries activities in order to preserve fisheries resources; and ensure compliance with relevant regulations of international law.

- **For the flag country:** The flag country requires: (i) Ensure that no fishing vessel is entitled to bear its flag in the seaboard or in the waters under the jurisdiction of other states unless such vessels have been issued a registration certificate and have been authorized to fish by the competent authority; (ii) To take coercive measures against fishing vessels flying their flag found to have violated management and conservation measures under national law. The sanctions must be strict enough to prevent violations and to deprive the profits obtained from such illegal activities.
- **For the Port States:** The port state must assist the flag state if the fishing vessel is voluntarily in the port or offshore port of the port state and request the port country to assist in the prevention of pollution and the safety and health conditions of work on the vessel.

Rights and obligations of States under IPOA-IUU Fishing 2001

- **Responsibility to the Flag state:** (i) Ensure that their national fishing vessels do not engage in IUU fishing activities and take the necessary measures to prevent such activities from actually occurring through inspection and monitoring; (ii) Ensure that a record of fishing is maintained for all vessels and ships flagged by them, including all information relating to the vessel, the owner, the permitted operating parameters of the vessel, as well as information on IUU fishing activities, if any; (iii) Fishing permits, which specify the areas and periods of fishing permitted, stocks and species caught, nets allowed to be used, as well as conservation measures.
- **Responsibility to the port state:** (i) Granting access to ports to ships and ships; (ii) Refusal of ports for vessels identified to have practiced IUU fishing, and subsequent direct reporting of such conduct to the state of its flag. (iii) Provide a list of ports to which the vessels are permitted to land; (iv) Enhance coordination efforts with the states of their flag and with regional fishing organizations.
- **Responsibility to the coastal state:** (i) effective inspection and monitoring of all fishing activities in the EEZ of its country; (ii) cooperation and exchange of information with neighboring coastal states and regional fisheries management organizations; (iii) monitoring of the licensing of all fishing activities in its national waters; (iv) authorizing the movement and processing of fish in the waters under the control of the coastal state.
- **Consumer Countries:** The action plan focuses on countries and fish consumption markets in monitoring IUU fishing activities through tracing fish origin and

fish products, according to which, within its jurisdiction, the consumer country takes the necessary measures to prevent the consumption of fish produced by IUU fish.

Secondly, penalties for violations of marine fishery exploitation

In summary, as reflected in relevant international legal instruments, it is possible to see the main sanctions applied to deal with violations of the law on marine fishery exploitation, including

Warning: This is a punishment for dealing with violations of international law on the minimization of seafood exploitation by publicly reminding and blaming individuals and organizations of minor, non-serious violations. This is reflected in EU Regulation No. 1005/2008 on the establishment of a community system to prevent, prevent, and eradicate IUU fishing.

Fines: This is the most common form of processing for fishery exploitation violations in countries with the vast majority of fishery exploration violations as well as other related violations. According to international practice, the fine must correspond to the economic value of the fish products of the vessel in breach. The legal basis of this sanction is Article 73 and Article 230 of UNCLOS 1982; EU Regulation No. 1005/2008 establishing a system within the Community for the prevention and elimination of fishing activities; Article 4, paragraphs 1 to 3, of the 1973 MARPOL Convention; Article VIII of the CITES Convention of 1973;

Arrest of ships: This is the detention or restriction of movement of a ship according to a decision of the Court to secure a maritime claim and does not include the arrest of a ship to enforce a judgment or an other enforceable instrument. This provision is recorded in Article 1.1 of the 1999 United Nations Convention on the Arrest of Ships; Articles 21 and 51 of the 2001 IPOA-IUU;

Imprison: This is the punishment of deprivation of human freedom, forcing the convicted person to separate himself from the normal life of society, living in a separate environment under strict control. Although Article 73 of the 1982 UNCLOS gives maritime states the right to inspect, arrest, and prosecute in order to ensure compliance with their laws enacted under the United Nations Convention on the Law of the Sea, However, also under Article 73 of UNCLOS, the imposition of imprisonment as a form of punishment for violations of fishery exploitation in the absence of an agreement between the relevant states is prohibited. Therefore, in fact, a number of countries have signed agreements allowing the imposition of prison sentences for violations in the fishery sector, typical of the 2002 Memorandum of Understanding between Australia and Papua New Guinea. In addition, imprisonment penalties are recorded in many other international treaties in the field of fishery exploitation or related to the field, such as: Article 5, Article 3, Djibouti Code of Conduct 2009 (IMO, 2009); Article 3, United Nations Convention to Combat the Illicit Trade in Narcotic Drugs and Psychotropic Substances, 1988 (UNODC, 1988); Article 1, paragraph 2, and Article 8, paragraphs 1, and 2, Yaoundé Code of Conduct, 2013^[10]

Applying market access measures (e.g., yellow card, red card penalties): These are EU-specific sanctions. In accordance with the EU process, with third countries not taking measures against IUU, the EU will issue warnings and recommend these countries take the necessary measures to address the IUU problem. After identifying countries whose fisheries exports to the EU do not meet EU requirements for anti-IUU exploitation, the EU will issue a formal warning decision (yellow card measure) within a period of six months. After this period, if the yellow-carded countries fully implement the remedial measures recommended by the EU, the EU will remove the yellow card and allow their fisheries products to be imported normally into the EU market. Otherwise, the EU will impose a ban on imports of licensed fishery products after the date of the ban (red card) and put the country on the list of non-cooperative third countries in the fight against IUU^[14].

Refusal of licensing, withdrawal of exploitation licenses, or suspension of licenses for exploitation of fisheries: These are the sanctions recorded in Article 7.7.2, Article 8.2.7 of the Code of Conduct on Responsible Fisheries, 1995, and Article 51 of the IPOA-IUU, 2001. Refusal, withdrawal, or suspension of authorization to be a captain or officer on vessels that violate the terms of the 1995 United Nations Convention on the Conservation of Biodiversity and Remote Migration^[11].

In addition to the aforementioned forms, international law sanctions for the seizure of fishing gear and vessels; the confiscation of equipment or other tools used for illegal exploitation; the seizing of illegal fish production and forced remediation; the sequestration or return of the specimens and products that have been exploited and the reimbursement of the costs incurred as a result of such seizures; the expulsion of persons/fisheries in violation from the waters being exploited; the refusal to provide administrative assistance; the restriction on the use of ports by fishing vessels; the denial of entry to vessels that violate the law (Article 3 of the Nairobi Convention of 2003; the Convention on the International Trade in Endangered Species of Wild Fauna and Flora of 1973; Paragraphs 1 and 2 of Article 11, the Agreement on Port State Measures to Prevent, Determine and Eliminate Fishing in 2009; Article 1 of the Treaty on the Provisions of the State of the Sea); etc.

Thirdly, the issue of settling disputes over marine fishery exploitation

Potential disputes over fishery exploitation between nations, arising from competition to exploit marine fishery resources, are becoming increasingly intense. These competitions are both a consequence of the decline in fisheries resources and one of the factors accelerating this decline. Therefore, international law also has provisions for the settlement of fisheries disputes.

As the Constitution on the Sea of the International Community, UNCLOS 1982 contains most of the provisions of modern law of the sea, aimed at regulating exploitation and management activities in all waters, as well as establishing mechanisms for dispute resolution (Part XV), including disputes arising in the exploitation, conservation, and conservation of fisheries.

Articles 279, 280, and 281 of the 1982 UNCLOS provide that states are free to choose any of the means of peaceful settlement of disputes listed in Article 33(1) of the Charter of the United Nations (including negotiation, investigation, mediation, conciliation, arbitration, courts, and other peaceful means) at any time to resolve disputes arising between them concerning the interpretation and application of the Convention. Only if a settlement is not achieved by the method chosen and if the agreement between the parties does not preclude the possibility of conducting another dispute settlement procedure shall the dispute resolution procedures provided for in Part XV of UNCLOS 1982 be applied.

According to Section XV of UNCLOS 1982, there are two types of dispute settlement procedures: one is consensual settlement, and the other is compulsory dispute resolution procedures leading to binding decisions (compulsory settlement). Non-binding procedures include negotiation and conciliation. The Convention emphasizes in particular the obligation of states to use the two means of exchange of views and conciliation when disputes arise (Articles 283 and 284). With regard to compulsory proceedings, this procedure is only applicable when the parties to the dispute have exhausted the procedures that did not lead to binding decisions without a solution.

Under the 1982 UNCLOS, coastal states are not obliged to accept compulsory dispute settlement procedures relating to sovereign rights over their EEZ biological resources, including consideration authority to determine allowable catches, capability, allocation of surplus fish to other states, and conditions that may be met with access to overseas surplus. However, the Convention also stipulates that, in the event that the parties to the dispute fail to resolve their dispute by other means, they are obliged to use the compulsory conciliation procedure. In such a case, any party to a dispute may refer the dispute to the Compulsory Conciliation Committee pursuant to Annex V to the Convention in three specific cases, namely: (i) When a coastal state fails to comply with its obligations to ensure that biological resources in its EEZ are not seriously threatened; (ii) When a coastal state arbitrarily refuses to allocate to other states all or part of the surplus fish they declare to exist in accordance with Articles 62, 69, and 70 of the Convention. Annex V to UNCLOS 1982 provides for the Conciliation Committee as follows: If the parties concerned do not agree otherwise, the Conciliation Committee shall determine its own procedures; the decisions of the Committee on the settlement of the dispute shall be decided by a majority of votes. The Convention allows each party to appoint two members of the Conciliation Committee, and if one party fails to designate its own member or if the four members of both parties to the dispute cannot agree on the choice of the fifth member, the Secretary-General of the United Nations will designate the number of members left.

The Committee will make recommendations on how to resolve the dispute for the parties. The Committee's report is sent to the Secretary-General of the United Nations and forwarded to the parties to the dispute. It should be noted that in the above cases, although the conciliation procedure is mandatory for the parties to the dispute, the committee's report, including its conclusions or recommendations, is not binding on the parties.

The rules on fishing activities at sea and the rules on settlement of disputes at sea, including disputes over fishing in UNCLOS 1982, will be the legal basis for settling disputes about marine fishery exploitation between the States concerned.

Furthermore, it should be noted that UNCLOS 1982 does not compel states to settle disputes under the mandatory procedures of Section 2, Part XV, as long as they are still able to agree on alternative means of settling disputes or if neither of the parties concerned wishes to resolve disputes by these mandatory methods.

Section 2 of Part XV of the Convention establishes four binding dispute settlement bodies for States to choose from, including: (i) the International Court of Justice for the Law of the Sea (ITLOS) established under Annex VI to the Covenant; (ii) the Court of International Justice (ICJ); (iii) arbitral tribunal constituted in accordance with Annex VII UNCLOS 1982; and (iv) special arbitral tribunal constituted in accordance with Annex VIII UNCLOS 1982.

States parties to the Convention shall be free to declare in writing, at the time of signature, ratification, or at any time, to choose one or more of the aforementioned jurisdictions. Among these international jurisdictional institutions, the arbitral tribunal established under Annex VII is considered to be the default institution for settling a dispute if a state is a party to the dispute and has not declared which court to settle (Article 287, para. 3), or if the parties to a disputed dispute have chosen several different courts or have not agreed on which to choose for the settlement of their dispute (Art. 287, paras. 5). The Special Arbitration Tribunal may be used to settle disputes requiring an arbitrator to have an in-depth understanding of the area of expertise within the scope of the dispute, which are disputes relating to: (i) fisheries; (ii) the protection and preservation of the marine environment; (iii) marine scientific research; or (iv) maritime, including pollution caused by ships or by sinking (Article 1, Annex VIII).

General comments and proposed recommendations aimed at improving the effectiveness of the management and enforcement of international law on marine fishery exploitation

Although international organizations and nations around the world, especially over the last century, have worked together to establish principles and norms of law through the signing of many international treaties to regulate issues related to the sea and fisheries in a fairly comprehensive manner. However, for a variety of reasons, the provisions of international law on the sea as well as the exploitation of seafood at sea today, including the "Constitution on the Seas and Oceans of Humanity" (UNCLOS 1982), are still inadequate. misunderstandings relating to the provisions of the treaties (unclear or incomplete, causing different interpretations in the process of interpretation and application), leaving legal gaps that easily lead to a position in which some states can "use" for their own interests, as well as refusing or evading full compliance with obligations under international treaties for the private interest rather than the general interest of mankind in the field of fishery exploitation. Some of the typical imperfections of international law on marine fishery exploitation are as follows^[3]

Firstly, in terms of content, the current international legal instruments are: (i) The absence of specific provisions on

restrictions on the jurisdiction of coastal States to allow or not allow foreign operators access to residual fish in their EEZs, which leads them to take advantage of the problem to declare no residues, thereby undertaking joint ventures with foreign companies to exploit the full amount of allowed fishing; (ii) It is not guaranteed that these fisheries resources are effectively preserved in EEZs and at sea; (iii) There has not been a satisfactory solution to the issue of remote migration; (iv) The absence of uniform and synchronous regulations governing marine exploitation in general and marine fishery exploitation, in particular; (v) There has not been a lasting solution for the allocation of fisheries resources; (vi) In the absence of the strict legal regulations necessary to control fishing activities, Member States do not strictly implement their commitments.

Secondly, in terms of enforcement effectiveness: (i) The application and implementation of provisions of national law on the exploitation of marine fisheries that are still formal, inefficient and unsustainable; (ii) The role of the regional fisheries committee in the conservation and management of fisheries resources has not been developed; (iii) Illegal, unreported, unregulated fishery exploitation, as well as over-exploitation, the destruction of fishery resources is still prevalent and is becoming a global problem; (iv) Some fisheries and certain fish species in many parts of the world are still not controlled by any international treaty, so fishing activities in many areas of the globe are uncontrolled.

Thirdly, the mechanism of enforcement: There is no mechanism to enforce, monitor, and coordinate action in marine fishery exploitation between states; coordination to prevent and deal with illegal, unreported, and unregulated fishing between states in the waters is still ineffective. This has created obstacles to the harmonization of legislation in the region as the basis for cooperation in all areas, thereby reducing the motivation of Member States to implement their cooperation commitments.

After analyzing the inadequacies of general international law in regulating issues relating to marine fisheries, the author proposes a number of proposals aimed at perfecting international law on marine and marine fishing, thereby improving the efficiency of management, ensuring sustainable and responsible fisheries operations, preserving fisheries resources for all mankind, and promoting the well-being of all nations in the world. Specifically, there are currently two major issues relating to international law on marine fishery exploitation, namely: (i) the issue of settlement of international disputes concerning fisheries exploitation; and (ii) the problem of preventing the depletion of fisheries resources, especially fishery resources. The solution to finalize international law on marine fishery exploitation must meet the following requirements: (i) help to control fishing activities and limit them to a level that does not harm fish resources; (ii) ensure the conservation and development of fish resources; and (iii) ensure the well-being of all states concerned.

In order to meet these demands, the international community must adopt a wide range of measures, including legal, administrative, political, institutional, etc. In this case, the legal measure is the measure that should be the top priority, the focus, and the key.

Legal measures to be implemented include: enhanced review, supplementation, and refinement of restricted or unavailable provisions of international law on marine

fishery exploitation. In particular, with regard to UNCLOS 1982-The Charter of Humanity on the Sea, the provisions on the establishment of an authority competent to assess aquatic resources on a global scale should be supplemented in order to avoid the prospect of a coastal State benefiting from the regulation on the publication of surplus fish stocks; the addition of the regulations on the transit through the EEZ of fishing vessels^[4]; the further specification of the issue of the distribution of fish species that move between EEZs of two or more coastal States or between EEOs of one coastal country and areas of the coastal sea; the supplementation of rules on transit of fish through EEZ; the granting to States of certain jurisdictions (such as the expulsion from the exploitation zone, for ships not flying their national flag at sea, even when these ships are found to be in breach of the legislation on marine aquaculture); the increase of the penalties imposed on offences, with sufficient circumstances, in accordance with the rules of the United Nations Charter 281; and the elimination of penalties for offences under Article 281 of the 1982; ...

- To strengthen the protection of the rights and legitimate interests of fishermen at sea through: the creation of a legally binding joint international treaty, which specifically provides for the protection and protection of fishers from natural hazards from the sea and from human threats and violence to which they may be subjected; the elimination of overlapping problems in existing international legal instruments relating to fisherman protection; the establishment of a specific obligation to pay the coastal State's security allowance to its own nation's fishing crew against those who are captured by other States; the safeguarding of the working and living conditions on fishing vessels of civilians; the extension of the mandatory controls of port States (PSCs) to check the conditions of work and living on fisheries boats by extending the duty of inspectors on ships and imposing obligations to report violations of human rights and labour norms^[1].
- Enact mandatory regulations for the installation of vessel monitoring systems for vessels capable of long-range exploitation, issuing certificates of exploitation yield and traceability of fisheries origin from exploitation; tighten the regulations on the new closure and repair of fishing boats.
- Strengthening the recognition of UNCLOS 1982: Encouraging states that have ratified or acceded to 1982 to provide a solid legal basis for cooperation in the field of fisheries management and conservation and for the resolution of international disputes over marine fishery exploitation. The widespread recognition of UNCLOS 1982 will contribute to the establishment of an important legal framework for the maintenance of security, order at sea, and the efficient management and conservation of resources^[9].
- Promote the conclusion of bilateral and regional international agreements, with particular emphasis on issues such as conservation, management, and resolution of disputes over fishery exploitation and the establishment of regional fisheries organizations. Specifically for fish species shared between two or more countries, the following principles should be added: (i) recognizing that fish species shared between two or more states are a biologically unified entity; (ii) respecting the right to exploit those species in the

waters under the jurisdiction of a coastal state; (iii) the obligation of the states concerned not to cause harm to such species while exploiting them in waters within their national jurisdictions in accordance with Article 58 of the 1982 UNCLOS; (iv) fair and reasonable use of fish in conformity with Article 59 of the 1982 UNCLOS; (v) cooperation in good faith and avoidance of any abuse of their rights under Article 300 of the 1980 UNCLOS; To incorporate provisions on the settlement of disputes relating to fishery exploitation into bilateral and regional international treaties; Strengthening the conclusion of international treaties on cooperation in the monitoring and enforcement of fisheries law, which require Member States to internalize these regulations, while allowing vessels to enforce fishery law operating within Member States' EEZs^[4].

- Bring FAO regulations and United Nations resolutions on fishery exploitation into UNCLOS 1982 in its next edition, or upgrade to a multilateral international treaty legally binding at the global level, binding on all actors as well as on all states in the exploitation and conservation of fishery resources.
- Promote research, establishment, and development of regulations and projects on the management of aquaculture activities based on ecosystem access; improve the capacity and efficiency of law enforcement forces at sea.

Conclusions

Marine fisheries are an integral part of the world economy. Over the years, the industry has provided a significant source of nutritious food, contributing to global food security and playing an important role in the local economies of coastal communities in many countries. The fishing sector is part of the primary sector and is crucial for human diets and industrial processes. It directly employs millions of people and provides animal protein for human consumption and fish meal for livestock feed. Fisheries also have social, economic, and environmental implications. Sustainably managing fish stocks and supporting fisheries is essential for the sector's resilience to shocks, including those caused by climate change. Currently, although humanity has established a national legal system on marine fishery exploitation, in the process of application and practical implementation, this system has revealed many shortcomings. Therefore, in order to realize the UN's goal 14 on sustainable development, towards the development of a blue and circular marine economy, countries need to join efforts to build an increasingly complete international legal system on marine fishery exploitation. From the results of an overview study on the international legal framework on marine fishery exploitation, the inadequacies in the provisions of international law, and the recommendations made, the author hopes that this article will contribute more important theoretical, legal, and practical bases to supplementing and perfecting the provisions of international law on marine fishery exploitation and improving the effectiveness of the implementation of these regulations in the future.

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