Chapter Nine

RFMO Measures to Address IUU Fishing

9.1 The Duty to Cooperate and Regional Fisheries Organisations

Cooperation among States is one of the fundamental legal principles underpinning the long term conservation and sustainable use of marine fisheries resources in modern times. The LOSC mandates cooperation, either directly or through appropriate subregional or regional organisations in several instances: to ensure the conservation and development of the same stocks or stocks of associated species which occur within the EEZs of two or more coastal States;\(^1\) to agree on measures necessary for the conservation of stocks or stocks of associated species which occur within EEZs and in areas beyond and adjacent to EEZs;\(^2\) and to ensure the conservation and promotion of optimum utilisation of highly migratory species within and beyond EEZs.\(^3\) Cooperation is also required with respect to anadromous stocks\(^4\) and catadromous species.\(^5\) Additionally, Article 123 of the LOSC requires cooperation in the management of the living resources in semi-enclosed seas. The duty to cooperate is also reiterated in Articles 117 and 118 of the LOSC with respect to the conservation and management of living resources in areas of the high seas. Article 117 imposes a duty on all States “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”. Under Article 118, States whose nationals harvest identical living resources on the high seas are obliged to cooperate to take measures to conserve and manage these resources and to establish subregional or regional fisheries organisations to this end.

The duty to cooperate through global, regional, subregional or bilateral arrangements has been reinforced in a number of post-LOSC fisheries instruments, including Chapter 17 of Agenda 21, FAO Code of Conduct for Responsible Fisheries, FAO Compliance Agreement, and the UN Fish Stocks Agreement. States can give effect to their duty to cooperate either by establishing and

---

2 LOSC, Art. 63(2).
3 LOSC, Art. 64.
4 LOSC, Art. 66.
5 LOSC, Art. 67.
becoming members of subregional or regional fisheries management organisations (RFMOs) or by agreeing to apply the conservation and management measures of such organisations. More fundamentally, non-members of or non-participants in RFMOs are not discharged from the obligation to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks.

There are now over forty regional fisheries organisations operating worldwide—ten have been established under FAO and the rest created under international agreements between three or more contracting Parties. Regional fisheries organisations have different mandates, functions, structures, and competences and can be classified into three categories based on their main functions,