Chapter 15
The Role of the European Union in Regional Fisheries Organizations
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Introduction
The European Union (EU) represents a rather unique phenomenon on the international scene today. In order to try to clarify the role of this entity in regional fisheries organizations (RFOs) it seems appropriate first to briefly address some of the salient features of this regional organization on the international level when compared to other international governmental organizations, before turning to the specific issue of fisheries. For the purpose of this chapter, the uniqueness of this organization on the international level will be approached starting from three adverbs typifying that special character, namely strange, solitary and chameleon-like. Since this first part of the chapter will have revealed that the term EU should rather be replaced by European Community (EC) in the area of fisheries, the specific role of this organization in RFOs will subsequently be addressed in the second part through an analysis first of the external regulatory competence of the organization in this respect, followed by a description of its participation in different RFOs as well as the required competence to negotiate treaties in order to do so. Before turning in the final part of the chapter to the specific agreements concluded so far, the repercussions on the high seas freedoms of such EC participation will be addressed. The last part of the chapter will finally draw some overall conclusions.

The European Union and International Organizations
Strange
In the wide spectrum of present-day international organizations, the EU occupies a very special place indeed. Originating in an area of the globe where regionalism became most developed institutionally, the proper classification of the EU in the

traditional order of things has proven to be rather problematic. Having achieved a much higher degree of integration between its member states when compared to other international organizations, the question could be rightly raised as to whether the EU has to be classified as an international organization, a federation of states, or maybe even a federal state. As is often the case in international law when a new concept does not readily fit any of the already known categories, it is labeled as being *sui generis*, a category by itself. Something similar happened with respect to the special position of the EU in respect of the other international organizations, for the special concept of ‘supranational organization’ seems to have been created in international law terminology for that purpose. Depending on how restrictively one interprets this notion, some authors come to the conclusion that the EU is the only organization fitting within this category, while others cast their net somewhat wider. Since the EU has so far ‘not been completely “absorbed” their member states,” the latest edition of *Bowett’s Law of International Institutions* keeps on considering the EU as an international organization, be it with special characteristics.

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4 J. Salmon (ed.), *Dictionnaire de droit international public*, Brussels: Bruylant, 2001, p. 1064, where, as second definition of the term, it is stated: ‘Termes parfois utilisé pour qualifier certaines organisations internationales, notamment les Communautés européennes, pour souligner les caractéristiques qui, prises dans leur ensemble, les distingueraient des autres organisations internationales...’ Besides the requirement for the organs of the organization to be able to have direct effect on the individuals of the member states, already mentioned in the *Dictionnaire de la terminologie du droit international* (J. Basdevant (ed.), Paris: Sirey, 1959, pp. 588–589), the following three elements were added: 1) the organs must have the competence to bind the member states without the latter necessarily having to consent to them; 2) the possibility of judicial review by an independent court of justice accessible to individuals; and 3) the transfer to the organization of certain competences previously exercised by the member states.

5 The just mentioned definition in the *Dictionnaire de droit international public*, ibid., p. 1064, does not take a position in this respect (it uses the plural, but only cites the European Communities as an example).


7 K. Schmalenbach, “International organizations or institutions, General aspects,” in R. Wolfrum (ed.), *Max Planck Encyclopedia of Public International Law Online* (2009). This author labels the European Communities as “perfect examples,” whereas certain other regional organizations “also bear supranational powers to some extent.” She nevertheless concludes that the European Communities are the only supranational organizations in the literal sense of the word.