Conservation and Management of Marine Resources in the Asia-Pacific: Who is Responsible?

Overview on the Development of New International Legal Regime on the Conservation and Management of Marine Living Resources

Marine living resources, including fisheries, constitute a fundamental and primary use of the oceans and seas. A number of factors impact on the efforts aiming at conservation and management of marine living resources. They include misunderstandings about ocean resources, expanding population and migration to coastal areas, growing technological revolution in catches and processing, increasing pollution from human and industrial sources, unsustainable fishing practices, and competing activities in coastal zones and on the high seas. Furthermore, weak enforcement and a lack of political will increase the pressure on marine living resources. Inadequate management and overfishing are recognised as major worldwide problems. According to the FAO assessment, 44 per cent of the world’s scientifically assessed fish stocks are intensively to fully exploited, 16 per cent are over-fished, six per cent are depleted, and three per cent are slowly recovering.¹

To avoid conflicts between coastal and distant-water fishers, the United Nation Convention on the Law of the Sea of 1982 (the LOS Convention) set up a new legal order for the conservation and management of marine living resources. Coastal states have jurisdiction over their exclusive economic zones (EEZ) which extend up to 200 nautical miles from the baselines from which the territorial sea is measured. These states have 90 per cent of the fisheries catches worldwide.² For the high seas areas which remain outside national jurisdiction, all states have a duty to take measures, or to co-operate with other states, sub-regional, regional and international organisations, in taking neces-

² LOS Convention 1982, Arts. 61–73.
sary measures for the conservation of living resources. The extension of coastal state fishery jurisdiction was recognised as “a necessary but insufficient step toward the efficient management and sustainable development of fisheries”. The LOS Convention failed to fully settle the problems of straddling and highly migratory stocks as well as failing to base conservation and management of all marine species on precautionary and ecosystem approaches. Since, from a biological perspective, marine living resources cannot be divided, they should be managed and conserved in biological unit, by coastal states and flag states as well as stakeholders, sub-regional, regional and international relevant organisations.

The world community has made great efforts to fulfil the mandate of the LOS Convention. This is reflected in a number of agreements reached since the mid-1990s. They include the 1995 Agreement for the Implementation of the Provisions of the United Nation Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement), which entered into force on 11 December 2001, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement), which entered into force on 24 April 2003, the Convention on the Conservation and Management of the Sustainable Fisheries Resources in the South-East Atlantic Ocean, entered into force on 13 April 2003, and the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which has still to enter into force. These Agreements, along with the Code of Conduct for Responsible Fisheries, which is a voluntary instrument only, have strengthened the objective of sustainable fisheries set by the work of the World Summit on Sustainable Development held at Johannesburg in September 2002. The Summit required action to be taken in order to maintain or restore stocks to levels that can produce the maximum sustainable yield, with the aim of achieving these goals for depleted stocks on an urgent basis and, where possible, not later than by the year 2015. The Summit also recognised marine protected areas (MPAs) as essential tools for conserving marine biodiversity and sustaining local human communities. Targets to establish representative networks of MPAs by 2012, to halt the loss of marine biodiversity, including coral reefs and wetlands, and to help realise the application of the ecosystem approach to ocean and fisheries management by 2010 have been set up. Furthermore, the need to eliminate illegal, unreported and unregulated fishing and the importance of ratifying, acceding to

3 LOS Convention 1982, Arts. 116–120.
5 The UN Fish Stocks Agreement has 34 member states at present.