

Leiðandi  
vettvangur í tíu ár



# International Fisheries Law and Transboundary Fish Stocks

**Prof. Erik J. Molenaar**

Deputy Director, Netherlands Institute for the Law of the Sea (NILOS), Utrecht  
University

Professor, Norwegian Centre for the Law of the Sea (NCLOS), UiT The Arctic  
University of Norway

[e.j.molenaar@uu.nl](mailto:e.j.molenaar@uu.nl)



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# Presentation overview

- Introduction
- International legal framework
- 'International' entitlements to marine living resources
- Restrictions on entitlements
- Cooperation through regional fisheries management organizations or arrangements (RFMO/As)

# Introduction

- International fisheries law: the domain of international law that relates specifically to the conservation, management and/or development of marine capture fisheries
  - a branch or part of the domain of the international law of the sea
- Fisheries resources
  - Fish, molluscs, crustaceans, jelly-fish, etc.
  - Not: Marine mammals

# Introduction (cont.)

- Categories of fish stocks
  - Non-transboundary fish stocks
    - Discrete inshore fish stocks
    - Discrete high seas fish stocks
  - Transboundary fish stocks
    - Shared or joint stocks (2 or more exclusive economic zones (EEZs))
    - Straddling stocks (1 or more EEZ + high seas)
    - Highly migratory stocks (e.g. tuna)
    - Anadromous (e.g. salmon)
    - Catadromous (e.g. eel)

# Introduction (cont.)

- Marine capture fisheries under pressure by many problems: e.g.
  - Over-exploitation of target species
  - By-catch of non-target species (fish and non-fish) and impacts on the benthos
  - Other unsustainable fishing practices (e.g. fishing with explosives)
  - Lost and discarded fishing gear and packaging material (ghostfishing)
  - Subsidies
  - Illegal, unreported and unregulated (IUU) fishing
  - ‘External factors’; e.g. marine pollution (climate change and ocean acidification)
  - States not willing or capable of regulating (‘free riders’ and *pacta tertiis* rule)

# International legal framework

- Various levels:
  - Global, (sub)regional & bilateral
- Various types of international instruments
  - Jurisdictional framework
    - UN: 1982 United Nations Convention on the Law of the Sea (UNCLOS) & 1995 Fish Stocks Agreement (UNFSA)
    - FAO: Compliance Agreement (re-flagging) & Port State Measures Agreement (IUU fishing)
  - Fisheries regulation (substantive)
    - Constitutive instruments of RFMO/As & their decisions
    - Bilateral fisheries agreements (access & regulation)
- Conservation of target & non-target species and their habitats

# 'International' entitlements to marine living resources



- Coastal State
  - In maritime zones under coastal State sovereignty (internal waters, archipelagic waters & territorial sea)
  - In maritime zones where coastal States have sovereign rights (EEZ & continental shelf)
- Flag State
  - Access to the surplus of the total allowable catch (TAC) through public access agreements (including reciprocal access)
  - Freedom of fishing on the high seas

# Restrictions on entitlements

1. Avoid over-exploitation by science-based management, esp. setting a TAC pursuant to the precautionary approach to fisheries management
2. Pursue an ecosystem approach to fisheries management (EAF)
3. Within EEZ: Strive for optimum utilization, by giving other States access to surplus TAC
4. Exercise effective jurisdiction and control over own vessels (e.g. to combat IUU fishing)
5. Duty to cooperate with other coastal or flag States in relation to transboundary and discrete high seas fish stocks
  - Re straddling and highly migratory fish stocks, duty means duty to cooperate with RFMO/As (RFMO/As preferred vehicle for regional fisheries regulation)

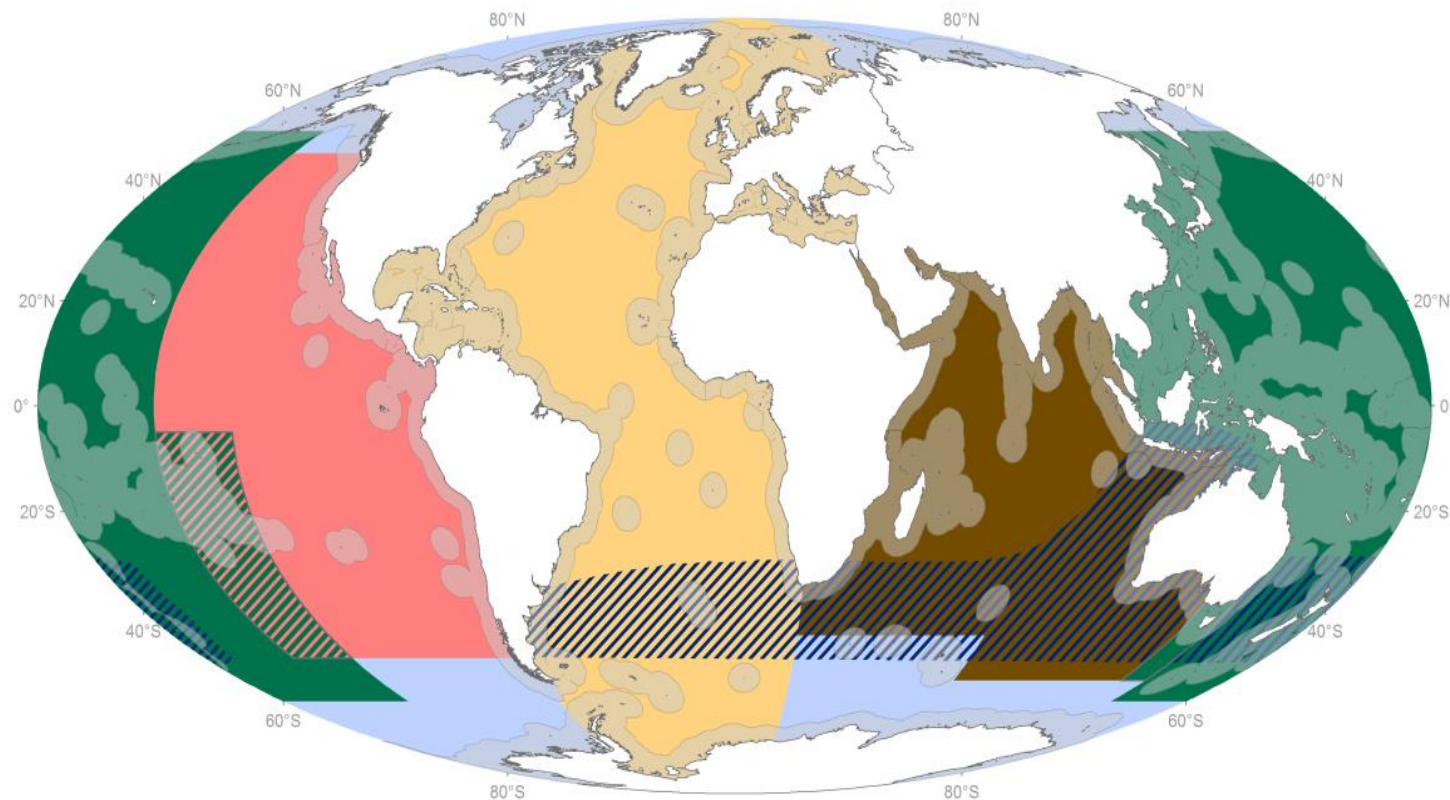
# Cooperation through RFMO/As

- No generally accepted definition for RFMOs in UNCLOS, UNFSA or elsewhere
- Here: regional intergovernmental mechanism for the conservation and management of fisheries resources
- RFMOs are a sub-set of FAO's regional fisheries bodies (RFBs) (50+) which
  - only deal with marine fisheries, and not inland fisheries; and
  - have a mandate to impose legally binding conservation and management measures on their members
- UNFSA: RFMOs are the principal mechanism for the conservation and management of straddling and highly migratory fish stocks

# Cooperation through RFMO/As (cont.)

- Types of RFMO/As and key distinctions
  - Type of institution: intergovernmental organization or a regional fisheries management arrangement (RFMA) and its Conference/Meeting of the Parties
  - Institutional setting: stand-alone or part of, or established under, an overarching regime or institution
  - Geographical mandate: only coastal State maritime zones; only high seas; or both
    - Highly determinative for the issue of participation
  - Species mandate: specific (groups of) target species or all 'residual' target species in a geographical area
- 16 RFMO/As with a geographical mandate that includes high seas areas or that consists exclusively of high seas

# 5 tuna RFMOs



200nm limit

## Tuna Regional Fisheries Management Organizations

Commission for the Conservation of Southern Bluefin Tuna

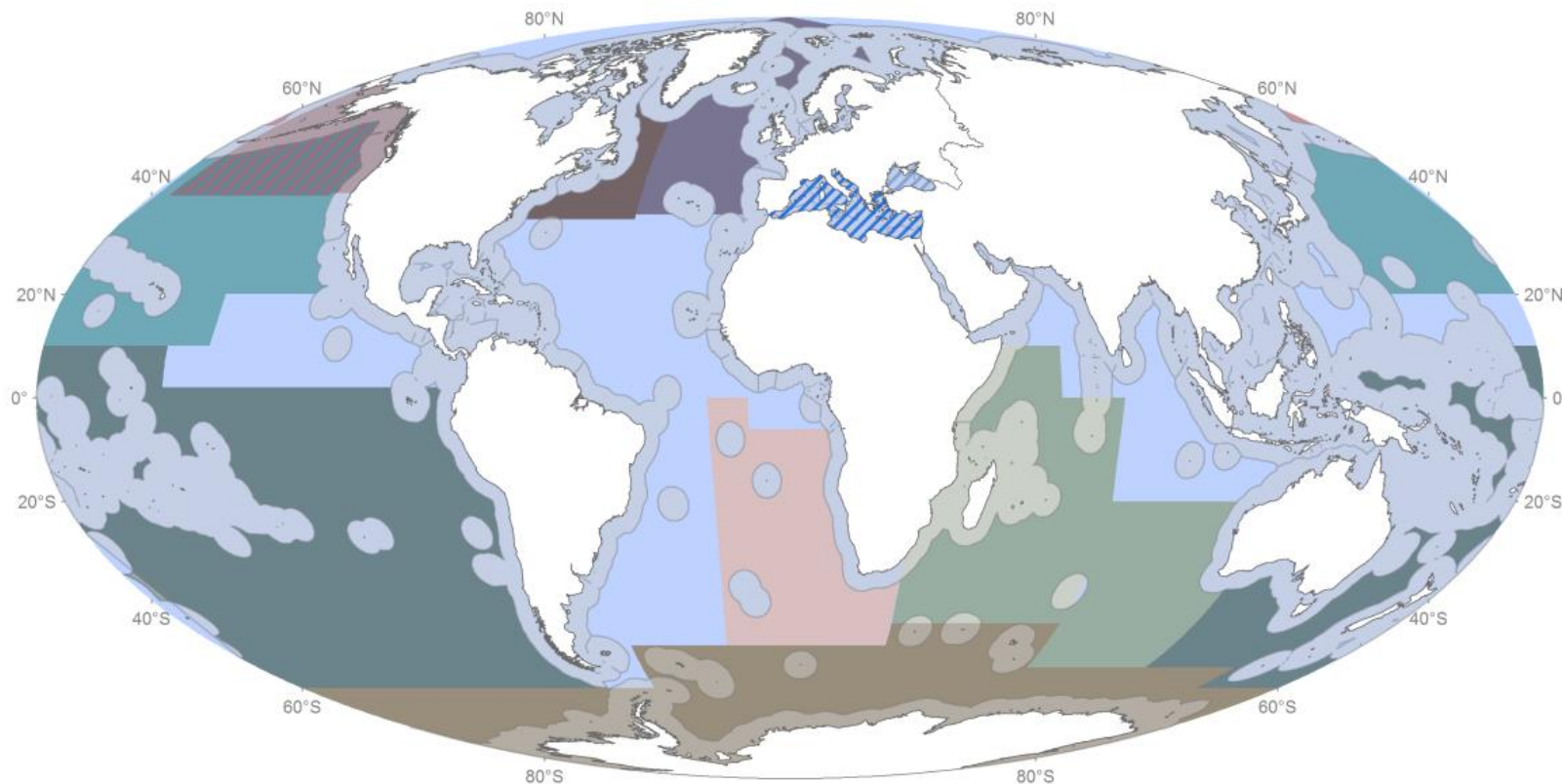
Inter-American Tropical Tuna Commission (IATTC)

International Convention for the Conservation of Atlantic Tunas (ICCAT)

Indian Ocean Tuna Commission (IOTC)

Western and Central Pacific Fisheries Commission (WCPFC)

# 11 non-tuna RFMO/As



200nm limit

## Non-Tuna Regional Fisheries Management Organizations

Conv. on Cons. of Antarctic Marine Living Resources

Conv. on Cons. & Mgmt of Pollock Resources in the Central Bering Sea

General Fisheries Council for the Mediterranean

International Pacific Halibut Commission

Northwest Atlantic Fisheries Organization (NAFO)

North East Atlantic Fisheries Commission (NEAFC)

North Pacific Anadromous Fish Commission

South East Atlantic Fisheries Organization (SEAFO)

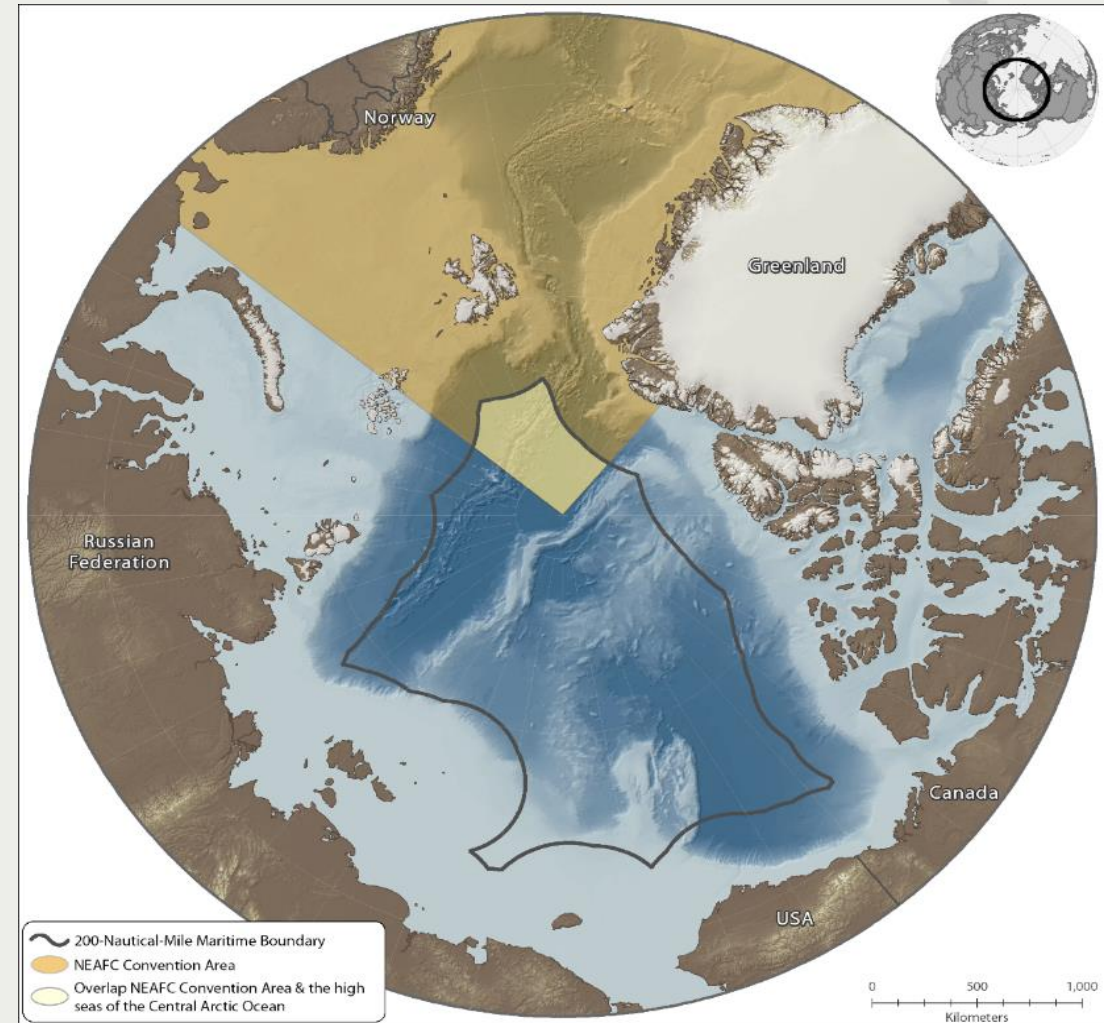
South Indian Ocean Fisheries Agreement (SIOFA)

South Pacific Regional Fisheries Mgmt Org

Southwest Indian Ocean Fisheries Commission

# Cooperation through RFMO/As (cont.)

- Ensuring full high seas coverage with RFMO/As
  - Newest RFMA: Central Arctic Ocean Fisheries Agreement
    - Opened for signature on 3 October 2018
    - 10 parties: Arctic Five + Other Five
    - No unregulated fisheries: their vessels will only engage in commercial or exploratory fishing pursuant to the measures of the Meeting of the Parties or (new) RFMO/As



# Cooperation through RFMO/As (cont.)

- Diverging practices on key issues
  - Participation: Members and Cooperating Non-Contracting Parties (CNCPPs)
    - Formal rules on eligibility requirements and criteria
    - Procedures: approval role
  - Determining the TAC
    - Scientific advice
    - Geographical scope
  - Allocation of fishing opportunities
    - Allocation formulas and criteria
    - Allocation procedures
    - Implications of climate change

# Thanks!

## Questions?

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