

Leiðandi
vettvangur í tíu ár



International treaties, opportunities and limitation

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HAMPIÐJAN

Hrífa Óháðsdóttir

The structure of the talk

- The angle – which questions are being addressed?
- 1982 Law of the Sea Convention (LOS) and 1995 Fish Stocks Agreement (FSA)
- Real interest in fisheries
- Allocation criteria for new members in transboundary fish stocks management
- Examples from the North-East Atlantic fisheries
- Conclusion

The angle – which questions are being addressed?

Intl. regulation on allocating opportunities to catch fish stocks which are transboundary, that is:

- Stocks occurring within the EEZ of two or more coastal States, so called *shared fish stocks* (art. 63 (1) 1982 LOS);
- Stocks occurring both within the EEZ and in the area beyond and adjacent to it, so called *straddling fish stocks* (art. 63 (2) 1982 LOS);
- *Highly migratory stocks* (art. 64 1982 LOS).

...and which are exploited by fishing fleets from two or more States.

1982 Law of the Sea Convention (LOS) and 1995 Fish Stocks Agreement (FSA)

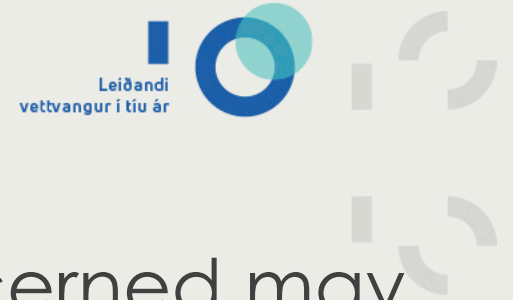
LOS

- The Zonal approach.
- All fish stocks.
- Freedom of the high seas.
- Duty of States to enter negotiation in good faith with other States in order to ensure cooperation in managing transboundary fish stocks.

FSA

- **Limited application, both geographically and in terms of fish stocks.**
- **Environmental principles.**
- **The role of RFMOs strengthened.**
- **Allocation of management rights and fishing opportunities – freedom of the high seas restricted.**

Real interest in fisheries



- Art 8(3) of FSA

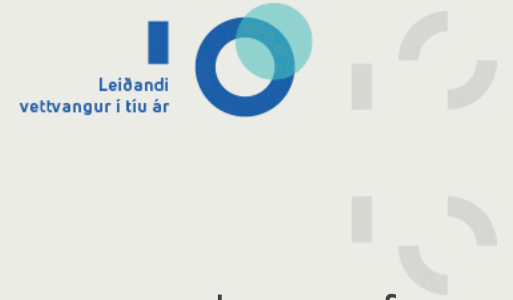
“States having a **real interest** in the fisheries concerned may become members of such organization or participants in such arrangement.”

- Art 17(2) of FSA

Non-participant state “...**shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.**”

- A sufficient exclusion clause?

Allocation criteria for new members in transboundary fish stocks management

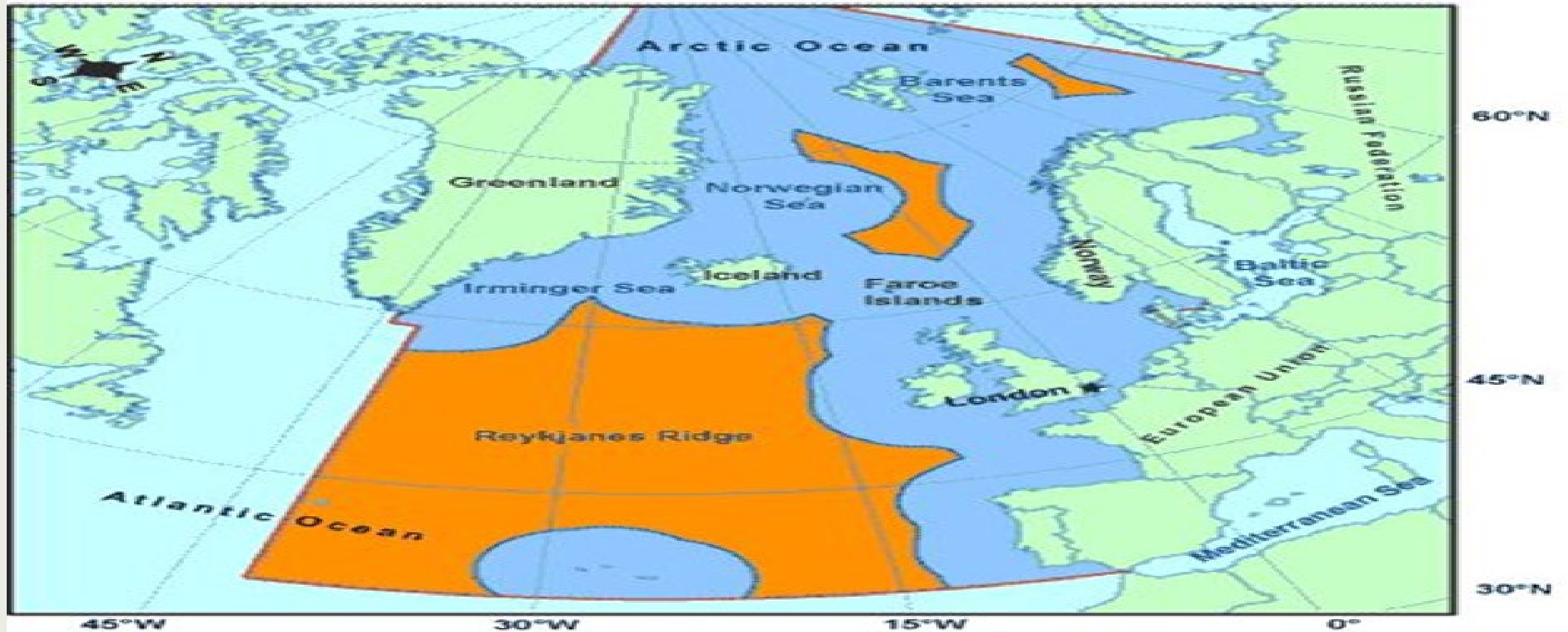


- Art 11 of FSA

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

- (a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;
- (b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;
- (c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;
- (d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;
- (e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and
- (f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Examples from the North-East Atlantic fisheries



Conclusion



- Freedom of high seas fisheries has been restricted.
- The real interest rule is used in practice to justify exclusion of states that are not active in the fisheries.
- Criteria to allocate fishing opportunities are not clear.
- A lot of discretion for states opt in or opt out of cooperation mechanism.
- Dynamic biological situation while a long term allocation keys are preferable for stable management.
- A dilemma, which appears to be unsolvable, or what?