

## International regulations of fisheries in the Asia Pacific

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Change of international order of World ocean legal status of UN Convention on the Law of the Sea (1982)<sup>1</sup>, the rights of coastal states to the use of living resources of coastal waters led to the closing of many areas of traditional catch of a number of countries. It mostly touched upon the interests of the countries with developed commercial catching sector. Such situation drove to the need for two-side and many side cooperation between states in fisheries based on the rational use of living ocean resources of World ocean, generally accepted principles of the international law and taking into account the provisions of UN Convention on the Law of the Sea (1982).<sup>2</sup>

Besides, in the conditions of the role and significance of World ocean and its resources in people's life, as well as the growing depletion of commercial reserves of many biological resources species due to uncontrolled and unlimited catching, states have been recognizing the need for legal regulation of the activity in connection with the use of living resources<sup>3</sup>.

As the Pacific ocean contains the huge amounts of ocean resources the issue of mutual concern balance and restriction of uncontrolled fishing is arising in the most serious way in that region.

Regulation of fishing in the Asia Pacific is exercised by a number of multi-party universal and regional as well as two-party international agreements.

It is seen that the resource potential of the region is being used quite actively. For most reserves, the level of commercial extraction reached 90% of the estimated potential volume, thus making the protection of biological resources from excessive use is one of the urgent tasks<sup>4</sup>.

Let us list some multi-party agreements regulating fishing in the Asia Pacific.

### **UN Convention on the Law of the Sea (1982)**

That Convention joined by most Asia-pacific countries has fixed on the international level the provisions crucial for fishing: width of territorial sea, width of exclusive economic zone, freedom of fishing in open sea principle, etc.

**Central Bering Sea Pollock Convention (1994)**<sup>5</sup>, joined by China, Russia, USA, Korea, Japan and Poland<sup>1</sup>. Convention covers the open sea area in the Bering

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<sup>1</sup> UN Convention on the Law of the Sea: Montego Bay, December 10, 1982 : as on July 23, 1994 г. // Bulletin of international treaties, 1998. - № 1. P. 3 – 168.

<sup>2</sup> Znametsky Yu. A. International agreements of the USSR on fishery matters // Soviet annual report of marine law. 1982. – Moscow : Mortehtinfokloma, 1983. P. 21.

<sup>3</sup> Same source. P. 22.

<sup>4</sup> Mirovitskaya N. S. International problems of living resources protection in the northern part of Pacific ocean // Annual bulletin of marine law 1992 – 1995. Part 3. – Moscow : 1997. P. 65.

<sup>5</sup> Convention on Central Bering Sea Pollock Convention : Washington, June 16, 1994. // Bulletin of international treaties, 2006. - № 9. P. 3 - 19.

sea beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured for the Bering sea coastal states, and sets some rules for Pollock fishing in Convention's area.

**Convention on convention for the conservation of anadromous stocks in the North Pacific ocean (1992)**<sup>2</sup>, joined by Russia, Canada, USA and Japan, recognizing that anadromous stocks in the North Pacific Ocean originate primarily in the waters of Canada, Japan, the Russian Federation and the United States of America (preface of Convention).

The area to which Convention applies as per article 1 shall be the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Agreement Concerning Cooperation in the Management of Fisheries of Common Interest (1982) (*Nauru Agreement*)<sup>3</sup>. Its members are Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua – New Guinea and Solomon Islands.

According to article 2 of Agreement, member states are guaranteed preferred access to tuna reserves. All foreign vessels may do commercial catch only for payment and under license, subject that observers from coastal states are onboard.

Among multi-party agreements, the following may be named: Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (1989) (*Wellington Convention*)<sup>4</sup>, Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region (1992) (*Niue Treaty*)<sup>5</sup>, Palau arrangement for the management of the Western Pacific purse seine fishery (1992) (*Palau Arrangement*)<sup>6</sup>, Convention on the conservation and management of highly migratory fish stocks in the Western and Central Pacific ocean (2000)<sup>7</sup>.

Meantime, fisheries in the Asia Pacific are regulated not only by concluding international multi-party agreements and membership in various international organizations, two-party agreements between that region's states are also very significant. By such agreements being active declarations of states' will<sup>8</sup>, coastal states are setting their rights and liabilities as to the catch of certain species and access of other countries to commercial fishing of Pacific ocean resources.

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<sup>1</sup> Status of the Central Bering Sea Pollock Convention [Electronic resource] : Alaska Fisheries Science Center. – Access: [http://www.afsc.noaa.gov/refm/cbs/convention\\_description.htm](http://www.afsc.noaa.gov/refm/cbs/convention_description.htm) [last visited: March 14, 2012].

<sup>2</sup> Convention on convention for the conservation of anadromous stocks in the North Pacific ocean: Moscow, February 11, 1992 // Bulletin of international treaties, 1993. - № 7. - P. 13 - 22.

<sup>3</sup> Agreement Concerning Cooperation in the Management of Fisheries of Common Interest (1982) [Electronic resource] : Nauru, February 11, 1982 - <http://www.pnatuna.com/system/files/Nauru%20Agreement.pdf> (last visited: 14.03.2012).

<sup>4</sup> Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (1989) [Electronic resource] : Wellington, November 24, 1989 – Access: <http://eelink.net/~asilwildlife/southpacific.html> (last visited: 14.03.2012).

<sup>5</sup> Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region [Electronic resource] : Honiara, July 9, 1992. – Access: <http://www.ecolex.org/server2.php/libcat/docs/TRE/Multilateral/En/TRE001964.doc> (last visited: 14.03.2012).

<sup>6</sup> Palau arrangement for the management of the Western Pacific purse seine fishery [Electronic resource] : Suva, October 2, 1992 – Access: <http://faolex.fao.org/docs/pdf/mul45003.pdf> (last visited: 14.03.2012).

<sup>7</sup> Convention on the conservation and management of highly migratory fish stocks in the Western and Central Pacific ocean [Electronic resource] : Honolulu, September 5, 2000 – Access: <http://www.wcpfc.int/system/files/documents/convention-texts/text.pdf> (last visited: 14.03.2012).

<sup>8</sup> Naumov L. E. Classification of two-party agreements of the USSR with developing countries in ocean fisheries // Actual matters of marine law. – Moscow: Transport, 1978. P. 33.

Among two-party agreements, the following may be listed: Agreement between the Government of the USSR and the Government of Japan on mutual relations in the field of fisheries near coasts of both countries (1984)<sup>1</sup>, Agreement between the Government of the USSR and the Government of People's Republic of China on cooperation in fisheries (1988)<sup>2</sup>, Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea between the USA and Canada (1953)<sup>3</sup>, etc.

Meantime, a great number of international agreements devoted to fisheries regulation in the Asia Pacific do not eliminate all the matters in the sector.

Many regional and, to a greater extent, two-party international agreements often do not contain any exact self-executable norms vesting the power to regulate fishing on special bodies established in compliance with such agreements.

That results in the absence of any distinct norms and rules regulating fisheries, and agreements are mostly declarative and do not show any legal view in which regions certain kinds of fishing are possible, which gear may be used for such kinds of fishing and which legal restrictions apply.

It is certain that not all the matters in connection with fishing regulation may be fixed in international agreements. Conditions like annual fish catching quota, closing some fishing areas for a season due to excessive extraction of biological resources may be set forth only by special authorities which, based on scientific research, must make the above decisions. However the fact that such authorities are established in compliance with each international agreement devoted to fisheries regulation, is creating another problem.

The problem is that such authorities are acting independently from each other although they may regulate fisheries in the same areas of Pacific ocean. As a result, it is not considered how regulation of one kind of fisheries may effect another fishery and decisions of other authorities are not taken into account which causes the lack of single legal framework.

The solution is in the establishment of single international organization on the regulation of fisheries in Pacific ocean which will require adoption and signing of a special international treaty which could set forth the powers of such organization. Meantime, parties of such treaty must be not only the Asia Pacific countries but also other states, engaged in fisheries in Pacific ocean. That will ensure comprehensive regulation of fisheries in that region which will contribute to stability in the sector and transparency of legal regulations.

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<sup>1</sup> Agreement between the Government of the USSR and the Government of Japan on mutual relations in the field of fisheries near coasts of both countries : Tokyo, December 7, 1984 // Bulletin of international agreements of the Russian Federation on fisheries and fishing research. - Moscow, 1995. P. 327 - 330.

<sup>2</sup> Agreement between the Government of the USSR and the Government of People's Republic of China on cooperation in fisheries : Moscow, October 4, 1988 г. // Bulletin of Russian-Chinese treaties. 1949 - 1999. – Moscow: Terra-Sport, 1999. P. 75 - 77.

<sup>3</sup> Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea [Electronic resource] : Ottawa, March 2, 1953. – Access: <http://docs.kodeks.ru/document/901880153> (last visited: 14.03.2012).