



The Convention for The Conservation and Management of Highly Migratory Fish Stocks in The Western and Central Pacific Ocean (WCPFC Convention)

Background

The Convention for The Conservation and Management of Highly Migratory Fish Stocks in The Western and Central Pacific Ocean (WCPFC Convention) was a major turning point for Pacific Islands coastal states and distant water fishing nations (DWFNs) in the Western and Central Pacific. It marks the first time these two groups of states sat together at the table to work out a mechanism for broad-based management of the highly mobile and highly valuable tuna stocks of the region.

After four years of negotiations between the coastal States of the Western and Central Pacific and States fishing in that region, the WCPFC Convention was opened for signature at Honolulu on 5 September 2000. The convention is one of the first regional fisheries agreements to be adopted since the conclusion in 1995 of the UN Fish Stocks Agreement.

Concept

According to Article 2, the objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the 1982 United Nations Convention on the Law of the Sea and the 1995 UN Fish Stocks Agreement. For this purpose, the Convention establishes a Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

Entry into Force

In accordance with the provisions of Article 36, the Convention entered into force on 19 June 2004. As at November 2004, the following states had ratified or acceded to the Convention; Australia, China, Cook Islands, Federated States of Micronesia, Fiji Islands, Korea, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga and Tuvalu.

According to Article 36 of the Agreement:

This Convention shall enter into force 30 days after the deposit of instruments of ratification, acceptance, approval or accession by:

- three States situated north of the 20° parallel of north latitude; and
- seven States situated south of the 20° parallel of north latitude.

If, within three years of its adoption, this Convention has not been ratified by three of the States referred to in paragraph 1 (a), this Convention shall enter into force six months after the deposit of the thirteenth instrument of ratification, acceptance, approval or accession or in accordance with paragraph 1, whichever is the earlier.

For each State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area, or regional economic integration organization which ratifies, formally confirms, accepts or approves the Convention or accedes thereto after the entry into force of this Convention, this Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification, formal confirmation, acceptance, approval or accession.

Main Features

The WCPFC Convention consists of 44 Articles and 4 Annexes.

Conservation and management measures under the Convention are to be applied throughout the range of the stocks, or to specific areas within the Convention Area, as determined by the Commission.

The WCPFC Convention area of competence is defined in Article 3 of the Convention and includes a large area of high sea lying outside

and between the 200 nautical mile exclusive economic zones of its Parties and its regulatory competence extends to all fish stocks of the species listed in Annex I of the 1982 Convention. The convention applies to all species of highly migratory fish stocks with the Convention Area, except sauries. Highly migratory fish stocks is defined as all fish stocks of the species listed in Annex I of the 1982 Convention occurring in the Convention Area and such other species of fish as the Commission may determine

The WCPFC is empowered to adopt principles and measures for conservation and management of the highly migratory fish stocks in its area of competence which reflect the key environmental protection principles in the UN Fish Stocks Agreement. According to Article 5 of the Convention, these include measures based on the best scientific evidence available to ensure the long term sustainability of the highly migratory fish stocks in the Convention area and the promotion of their optimum utilization. The Commission must apply the precautionary principle in accordance with Annex II of the UN Fish Stocks Agreement, determine the impact of fishing activities on non target and associated or dependent species and their environment and adopt plans, where necessary, to ensure the conservation of species and protect habitats of special concern. The conservation measures to be taken by the Commission also include those which protect biodiversity in the marine environment and which assess the impact of fishing activities on other species belong to the same ecosystem.

According to Article 10 Paragraph 4 of the Convention, decisions on conservation and management measures are to be taken by consensus but if consensus fails, decisions on matters of substance are to be taken by a three quarters majority of the members present. Decisions become binding on parties 60 days after their notification but members voting against the decision or absent may within 30 days of their adoption seek a review of the decision.

Under Article 24 of the WCPFC Convention, flag states must ensure that their fishing vessels do not engage in unauthorized fishing for highly migratory fish stocks beyond national jurisdiction and that as flag States they are able to effectively exercise their responsibilities for fishing vessels operation under their flag. Paragraph 4 and 8 of Article

24 also stipulates that Flag States must maintain a record of fishing vessels authorized to fish beyond national jurisdiction and require such flag vessels to use real time satellite position fixing transmitters so that they can participate in the vessel monitoring system established by the Commission.

According to Article 26, the Commission has established measures for Contracting Parties to board and inspect each others fishing vessels on the high seas in accordance with the UN Fish Stocks Agreement model. There is also provision under Article 4 of the WCPFC Convention for Contracting Parties to exchange information on non contracting parties' activities in the Convention area and for taking action to deter non contracting parties from fishing in the Convention area. **(HUF)**

Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)

Background

20 states have become Contracting Parties to the first regional government-to government agreement to promote and enhance cooperation against piracy and armed robbery in Asia, Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) which entered into force on 4 September 2006.

The twenty Contracting Parties to ReCAAP are Australia, the People's Republic of Bangladesh, Brunei Darussalam, the Kingdom of Cambodia, the People's Republic of China, the Kingdom of Denmark, the Republic of India, Japan, the Republic of Korea, the Lao People's Democratic Republic, the Republic of the Union of Myanmar, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of the Philippines, the Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, the United Kingdom, the United States of America and the Socialist Republic of Viet Nam.

Concerning about the increasing number of incidents of piracy and armed robbery against ships on Asia and its complex nature of the problem, the importance of safety of ships, including their crew, exercising the right of navigation provided for in the United Nations Convention on the Law of the Sea, and reaffirming the duty of states to cooperate in the prevention and suppression of piracy under UNCLOS, the contracting parties agreed to conclude the agreement. State parties realize the importance of international cooperation as well as the urgent need for greater regional cooperation and coordination of all states affected within Asia, to prevent and suppress piracy and armed robbery against ships effectively.

Concept

This agreement defines "piracy" as the following acts:

(a) any illegal act of violence or detention, or any act of depredation,

committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

- (i) on the high seas, against another ship, or against persons or property onboard such ship;
- (ii) against a ship, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Furthermore, “armed robbery against ships” means any of the following acts :

- (a) any illegal act of violence or detention, or any act of depredation, committed for private ends and directed against a ship, or against persons or property on board such ship, in a place within a Contracting Party’s jurisdiction over such offences;
- (b) any act of voluntary participation in the operation of a ship with knowledge of facts making it a ship for armed robbery against ships;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

In general, the contracting parties shall implement the agreement, including preventing and suppressing piracy and armed robbery against ships to the fullest extent possible, in accordance with their national laws and regulations. This agreement will not affect the rights and obligations of any contracting party under the international agreements to which that contracting party is a party and also will not give effect to the immunities of warships and other government ships operated for non-commercial purposes.

Main Features

Part I : Introduction

This part consists of definition in Article 1 and general provisions of the agreement in Article 2. In Article 3, lays out the obligations of the parties of the agreement where contracting parties shall make every

effort to take affective measures in accordance with its national law and applicable rules of international law to:

Prevent and suppress piracy and armed robbery againts ships;

1. Arrest pirated or persons who have committed armed robbery againts ships;
2. Seize ships or aircraft used for committing piracy or armed robbery againts ships, and to seize ships taken by and under the control of pirates or persons who have committed such acts as well as to seize the property on board
3. Rescue victim ships and victims of piracy or armed robbery againts ships.

Part II : Information Sharing Center (Article 4-8)

The ReCAAP Information Sharing Centre (ReCAAP ISC) was established under the Agreement, and was officially launched in Singapore on 29 November 2006. It was formally recognised as an international organisation on 30 January 2007.

Roles of the ReCAAP ISC are to :

- a. serve as a platform for information exchange with the ReCAAP Focal Points via the Information Network System (IFN); facilitate communications and information exchange among participating governments to improve incident response by member countries; analyse and prove accurate statistics of the piracy and armed robbery incidents to foster better understanding of the situation in Asia;
- b. facilitate capacity building efforts that help improve the capability of member countries in combating piracy and armed robbery in the region; and
- c. cooperate with organisations and like-minded parties on joint exercises, information sharing, capacity building programme, or other forms of cooperation, as appropriate, and agree upon among the Contracting Parties.
- d. The ReCAAP ISC facilitates exchange of information among the ReCAAP Focal Points through a secure web-based Information Network System (IFN). Through this network, the ReCAAP Focal

Points are linked to each other as well as the ReCAAP ISC on a 24/7 basis, and are able to facilitate appropriate responses to incident. The agency receiving the incident report will manage the incident in accordance to its national policies and response procedures, and provide assistance to the victim ship where possible. The agency will in turn, inform their ReCAAP Focal Point which will submit an incident report to the ReCAAP ISC and its neighbouring Focal Points.

Part III : Cooperation through the Information Sharing Center

Article 9 stated the obligation of contracting parties regarding information sharing where they shall :

1. Designate focal point responsible for its communication with the center and declare its designation of such focal point at the time of its signature or its deposit of an instrument of notification.
2. Respect the confidentiality of information transmitted from the center.
3. Ensure the smooth and effective communication between its designated focal point, and other competent national authorities including rescue coordination centers, as well as relevant non-governmental organizations.
4. make every effort to require its ships, ship owners, or ship operators to promptly notify relevant national authorities including focal points, and the Center.
5. promptly notify relevant information to the Center through its designated focal point for the contracting party which has received or obtained information about an imminent threat of, or an incident or, piracy or armed robbery against ships.
6. promptly disseminate the alert to ships within the area of such an imminent threat after receiving the alert from the Center.

Article 10 and 11 regulated the technical aspect about the way to request for cooperation and the cooperation of the requested contracting party.

Part IV : Cooperation

This part regulates about the cooperation; extradition in Article 12, Mutual Legal Assistance in Article 13, capacity building in Article 14, cooperative arrangements in Article 15, and protection measures for ships in Article 16.

Part V : Final Provisions

Article 17 regulated the settlement mechanism that contracting parties could exercise in case of disputes and Article 18 regulates about the signature and entry into force of the agreement. (MMJ)

Treaty Establishing the African Economic Community (AEC)

Background

In 1980 the Organization of African Unity (OAU) Extraordinary Summit adopted the Lagos Plan of Action, as a major step towards regional economic cooperation goal. During that Summit, the African leaders stated their commitment, individually and collectively, to promote the economic integration of Africa, in order to facilitate and reinforce social and economic intercourse. They also committed themselves to promote the economic and social development and integration of their economies and, to that end, to establish national, regional and sub-regional institutions leading to a dynamic and interdependent African economy, thus paving the way for the eventual establishment of the African Economic Community.

The commitments in the Lagos Plan of Action and the Final Act of Lagos were translated into concrete form, in Abuja, Nigeria, in June 1991 when the OAU Heads of State and Government signed the Treaty establishing the African Economic Community. The AEC Treaty has been in operation since May 1994 when the required number of instruments of ratification for its coming into force were deposited with the Secretary General of the OAU/AEC.

AEC has established direct working relations with the Economic Community of West African States (ECOWAS) in the West African region, the Economic Community of Central African States (ECCAS) in the Central region, and in the East and Southern region, the Common Market for East and Southern Africa (COMESA). In the Southern Region the AEC has been dealing with the Southern African Development Community (SADC). In North Africa, there is the Arab Maghreb Union (UMA) which has no direct contact with the AEC, so far. Apart from these Regional Economic Communities (RECs), there are other groupings like the Economic and Monetary Union of West Africa (UEMOA) and the Customs and Economic Union of Central Africa (UDEAC), all of which are engaged in the promotion of integration. All these organi-

zations were already in existence and operating when the AEC Treaty was signed in Abuja in June 1991.

Concept

The objective of the Treaty Establishing African Economic Community is to promote economic, social and cultural development as well as African economic integration:

1. To promote economic, social and cultural development and the integration of African economies in order to increase economic self-reliance and promote an endogenous and self-sustained development;
2. To establish, on a continental scale, a framework for the development, mobilization and utilization of the human and material resources of Africa in order to achieve a self-reliant development;
3. To promote co-operation in all fields of human endeavor in order to raise the standard of living of African peoples, and maintain and enhance economic stability, foster close and peaceful relations among Member States and contribute to the progress, development and the economic integration of the Continent; and
4. To coordinate and harmonize policies among existing and future economic communities in order to foster the gradual establishment of the Community.

Entry into Force

According to Article 101, the Treaty will enter into force thirty (30) days after the deposit of the Instruments of ratification by two-thirds of the Member States of the OAU. All state parties of the African Union automatically become the party to the African Economic Community.

Main Features

The Treaty Establishing African Economic Community consists of a Preamble, 21 Chapters and 106 articles.

Definition. Under this treaty region shall apply mean an OAU region as defined by Resolution CM/Res.464 (QCXVI) of the OAU Council of

Ministers concerning the Division of Africa into five (5) regions namely North Africa, West Africa, Central Africa, East Africa and Southern Africa, and “Sub-region” shall mean at least three (3) States of one or more regions as defined in paragraph 1(d) of this Article.

Basic Obligations. State parties must under any circumstances create favorable conditions for the development of the Community and the attainment of its objectives, particularly by harmonizing their strategies and policies. Each parties shall refrain from any unilateral action that may hinder the attainment of the said objectives. Each Member State shall, in accordance with its constitutional procedures, take all necessary measures to ensure the enactment and dissemination of such legislation as may be necessary for the implementation of the provisions of this Treaty. Any Member State, which persistently fails to honor its general undertakings under this Treaty or fails to abide by the decisions or regulations of the Community, may be subjected to sanctions by the Assembly upon the recommendation of the Council. Such sanctions may include the suspension of the rights and privileges of membership and may be lifted by the Assembly upon the recommendation of the Council.

Organs of the Community. This treaty amended that the African Economic Community have a several organ which are:

1. The Assembly of Heads of State and Government;
2. The Council of Ministers;
3. The Pan-African Parliament;
4. The Economic and Social Commission;
5. The Court of Justice;
6. The General Secretariat; and
7. The Specialized Technical Committees.

Finally, each contracting states has an obligation to take all appropriate legal, administrative and other means to implement the agreement. (ARD)