CHALLENGES AND OPPORTUNITIES:

EU FISHERIES MANAGEMENT, MARINE ENVIRONMENTAL PROTECTION & MARITIME GOVERNANCE

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Questions

1. Why does the EU adopt a “functional approach” to the implementation of the LOS Convention?

2. Are there benefits from separating marine resource and environmental protection issues from maritime jurisdiction and sovereignty claims?

3. What are the trends in EU law?
European Union

- 23 coastal Member States (MS)

1. Atlantic and North Sea
   - 8 MS & 2 third Countries

2. Baltic Sea
   - 8 MS & Russian Federation

3. Mediterranean Sea
   - 7 MS & 13 third Countries

4. Black Sea
   - 2 MS & 4 third Countries

Image source: European Commission
European Treaties

Principle of Conferral

Member State Competence
- Maritime Boundaries

Exclusive EU Competence
- FISHERIES
- International fisheries agreements

Shared Competence
- Environmental Measures
- Marine scientific research
  - subsidiarity & proportionality
<table>
<thead>
<tr>
<th>Country</th>
<th>Catches  (tonnes)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>16 046 114</td>
<td>17.02%</td>
</tr>
<tr>
<td>Peru</td>
<td>8 254 261</td>
<td>8.75%</td>
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<tr>
<td>Indonesia</td>
<td>5 713 101</td>
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<td>United States</td>
<td>5 162 997</td>
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<td>EU-28</td>
<td>4 889 188</td>
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<tr>
<td>India</td>
<td>4 301 534</td>
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<tr>
<td>Russia</td>
<td>4 261 503</td>
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<td>Japan *</td>
<td>3 848 955</td>
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<td>Chile</td>
<td>3 466 945</td>
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<td>Myanmar</td>
<td>3 332 979</td>
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<td>Vietnam</td>
<td>2 502 500</td>
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<tr>
<td>Norway</td>
<td>2 433 811</td>
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<td>Philippines</td>
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<td>Thailand</td>
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<td>Bangladesh</td>
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<tr>
<td>Mexico</td>
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<td>Malaysia</td>
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<td>1 154 199</td>
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<td>Morocco</td>
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<tr>
<td>Taiwan</td>
<td>903 892</td>
<td>0.96%</td>
</tr>
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</table>

Source: FAO (2014)
Seafood Deficit in the EU

- EU captures: 25%
- EU aquaculture: 10%
- Net imports: 65%

Source: European Commission 2014
Policy Reform 2014

1. Sustainability - MSY 2016

2. Better governance & management

3. Improve External Dimension

New Basic Fisheries Management Regulation
January 2014
External Dimension

1. Multilateral
   - 1982 UNCLOS, 1995 FSA, 1993 Compliance Agreement

2. 19 Regional Fishery Management Organisations

3. 22 Fishery Partnership Agreements
Fisheries Partnership Agreements

Northern Agreements

- Morocco
- Mauritania
- Guinea
- Guinea Bissau
- Cape Verde
- Ivory Coast, Gabon, Gambia
- Equatorial Guinea, Sao Tome and Principe
- Mauritius
- Comoros
- Seychelles
- Madagascar
- Mozambique
- Kiribati
- FSM
- Solomon Islands
External Partnership Agreements: Parameters for EU Action

1. Maintain the presence of the European fleet in third country waters while contributing to sustainable fisheries in such waters.
2. Ensure the supply to the European market while respecting the standards of quality, hygiene, and the market rules and regulations.

Exclusive EU competence

⇒

No scope for agreement between Member State and third country or private agreements.

- ENVIRONMENTAL POLICY
- DEVELOPMENT POLICY
- TRADE POLICY and SOUND FINANCIAL Mgt.
- U.N.
- WTO
Key Features
Fisheries Partnership Agreements

1. Provide EU fleet with access to **surplus** resources
   a. Art 63(2) and (3) UNCLOS

2. Set down conditions for access and management measures

3. Conform with international and regional law

4. 3\textsuperscript{rd} Country decides access, conditions and zones
EU Accountability

- ITLOS Case 21, Advisory Opinion, Sub-Regional Fisheries Commission (2 April 2015)
  - “only the international organization may be held liable for any breach of its obligations arising from the fisheries access agreement, and not its member States.” (Q3,p. 63).

- Case C-565/13, Ahlström and Others, 9 October 2014
  - Held authorisation is required from the European Commission for European flagged vessels to fish in third country waters and the prohibition the use of bare-boat charters for this purpose

- Requires all Member States to achieve and maintain good “environmental status” in the marine environment by 2020

- Marine Regions

- Ecosystem Approach
Ecosystem Boundaries

Garcia & Hayashi, Ocean & Coastal Management 43 (2000) 445-474
Maritime Spatial Planning

- Member States must produce plans by 2021 and coordinate activities with neighbouring States

- “Without prejudice to delineation and delimitation maritime boundaries / claims under UNCLOS”
Collaboration: Maritime Boundaries

1. Article 76 UNCLOS...Joint Submission by 4 Member States

2. Cross-Border Unitization Agreements, Joint Venture, or Joint Development Zones
   - Articles 74(3) / 83(3) UNCLOS
Rolling-back Maritime Claims

- Germany rolled back its territorial sea limits to 12 nm in 1995 and withdrew a claim to a deep-water roadstead as part of its territorial sea.

- United Kindom renounced any claim to EEZ /continental shelf around Rockall in 1997.
Trends in EU Law (1)

1. Strict observance of UNCLOS and international agreements.

2. The promotion of regional solutions to regional problems. Particularly in the form of sea-basin strategies, which acknowledge the unique political, geographical, economical context of each maritime region.

3. Adoption of integrated and collaborative approaches to maritime governance including ecosystem-based management.

4. Recognition that the problems of ocean space are closely interrelated and need to be considered as a whole.
5. Collaborative approach in its relations with Member States / third countries.

6. Promotion of the Union as a strong international actor in multilateral and regional bodies

7. Acceptance of Part XV of UNCLOS:
   - EU /Chile Swordfish Case
   - EU /Faroes Atlanto-Scandian Herring Case
   - EU participation in advisory opinion proceedings at the ITLOS. (Sub-Regional Fisheries Commission)

8. Agreement on conservation and sustainable use of biodiversity in ABNJ.
NUI Galway - Shanghai Jiao Tong University