

1 Introduction

1(1) The problem

- MSY (Maximum sustainable yield) [農水省の資料](#)

1(2) An overview of the law

- TAC [農水省の資料](#)
- [1958 年公海条約](#)が‘the least successful’というのはどういう意味においてか。
- ‘The paradox with which international lawyers have had to grapple’とは？
- ‘the fundamental point’は何か。
- ‘a large part of the problem’とは？

2 The 1982 UN Convention on the Law of the Sea

2(1) General Approach

- [条約文](#)
- ‘nominally retaining freedom of fishing on the high seas’ということは条約のどの規定に現れているか？

2(2) Competence over conservation of marine living resources under UNCLOS

(a) Living resources in the territorial sea and archipelagic waters

(b) Living resources in the exclusive economic zone (EEZ)

- 国連海洋法条約 61 条や 62 条 2 項を踏まえても‘considerable freedom for a coastal state to determine its own policies on conservation’があるとされるのはなぜか。
- ‘it is not easy to hold a coastal state to account for mismanagement’であるのはなぜか。
- [NEAFC](#)
- [NAFO](#)
- [ITLOS Advisory Opinion](#)

(c) Living resources of the high seas

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(d) Living resources of the continental shelf

(e) Deep seabed living resources

- 国連海洋法条約の深海底に関する規定が漁業に適用されない理由は？

2(3) The species approach

(a) Highly migratory species

- [ICCAT](#)
- [ITTC \(IATTC\)](#)
- [CCSBT](#)
- [IOTC](#)
- [SPFFA](#)

(b) Anadromous species

- [Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean](#)
- [North Atlantic Salmon Conservation Organization](#)

(c) Catadromous species

(d) Sharks, rays and other endangered species

3 Post-UNCLOS developments

3(1) FAO and the conservation of high seas living resources

- 1993 [Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas](#)
- 1995 [Code of Conduct for Responsible Fisheries](#)
- 2001 [International Plan of Action on Illegal, Unregulated and Unreported Fishing](#)
- 2009 [Agreement on Port State Measures](#)

3(2) Alternative approaches to management of high seas fisheries

- 国連海洋法条約の‘failure’の原因は？
- ‘One possible response’, ‘Another solution’, ‘The most radical alternative’のそれぞれを説明せよ。

3(3) 1995 Agreement on straddling and highly migratory fish stocks

- [条約文](#)
- ‘the Agreement is in many respects radical’ということは具体的にどのような点に現れているか。
- 注180 ヴェトナムは当事国になっている。[このページ](#)を下の方までスクロール。

(a) Application of the 1995 Fish Stocks Agreement

(b) Conservation, sustainable use and ecosystem protection

- ‘The 1995 UN Fish Stocks Agreement [...] places “maximum sustainable yield” within the broader context’ とは具体的にどういうことか。
- ‘ecosystem-based approach/management’ とは？
- ‘The choice of soft law instruments’ の理由は？
- [CCAMLR](#)

(c) Application of the precautionary approach

- ‘the precautionary approach incorporated in Article 6’ はいかなる意味において ‘moderate version’ なのか？

(d) Cooperation through regional fisheries bodies

- [Regional Fishery Bodies](#)
- 公海漁業協定 8 条・10 条のどういうところに注目すべきか。
- RFMO に参加しない国の漁船についてどういう対応を執ることが可能か。
- ‘eventually the 1995 UN Fish Stocks Agreement will come to be regarded as establishing new rules of access to high seas’ というときの ‘new rules’ とはどのようなもので、それはどのようにして生じるか。
- ‘the 1982 UNCLOS itself can be reinterpreted in accordance with the Fish Stocks Agreement to allow arrest for illegal fishing on the high seas’ というのは、国連海洋法条約のどの規定をどのように「再解釈」することになるのか。

(e) Compatibility of EEZ and high seas conservation measures

(f) Illegal, unreported and unregulated fishing (‘IUU fishing’)

- IUU fishing
 - [FAO](#)
 - [IMO](#)
 - [WWF Japan](#)
- この関連での公海漁業協定の ‘three elements’ を説明せよ。

4 Marine mammals

4(1) Legal status of marine mammals

4(2) UNCLOS and marine mammals

4(3) 1946 International Convention for the Regulation of Whaling

- [条約文](#)
- ‘Arguments for a preservationist reinterpretation of the ICRW, giving a special status to whales, must be viewed with scepticism following the ICJ judgment in the Whaling Case.’
とはどういうことか？
 - [南極海捕鯨事件](#)【判例国際法（第3版）59】【国際法判例百選（第3版）37】

5 Conservation of marine biodiversity

5(1) Evolution of the law on marine biodiversity

5(2) Agenda 21 and the UN Sustainable Development Goals

5(3) 1992 Convention on Biological Diversity

- ‘The MPA concept has no agreed or generally accepted content’なのにこの概念が用いられるのはなぜか？
 - 参考：[海洋保護区のさらなる拡大と管理のあり方に関するスタディグループ \(SG\) 報告書](#)

5(4) The relationship between UNCLOS and the CBD

- 両者の矛盾対立があり得るのはどういう場合か。
- ‘Any meaningful attempt to regulate marine biodiversity thus in practice depends principally on the parties to the 1982 UNCLOS, not on the parties to the 1982 CBD.’
というのはなぜか。
 - [CBD](#), Art 22.
 - UNCLOS, Art 237

補論 [日本の商業捕鯨](#)は国際法上どのように評価すべきか。