

# Trawling in the Persian Gulf from the Perspective of International Law of the Sea

Shima. Arabasadi<sup>1\*</sup>, Siavash. Sasanian<sup>2</sup>

<sup>1</sup> Assistant professor, Department of Public and International Law, Faculty of Law and Political Science, University of Mazandaran, Babolsar, Iran

<sup>2</sup> Master's Graduate in International Law, Faculty of Law and Political Science, University of Mazandaran, Babolsar, Iran

\* Corresponding author email address: sh.arabasadi@umz.ac.ir

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This study examines trawling in the Persian Gulf from the perspective of international law of the sea, with particular emphasis on the legal duties of coastal states to conserve marine living resources, prevent destructive fishing practices, and harmonize domestic fisheries regulations with international and regional standards. Trawling, especially bottom trawling, is considered one of the most harmful fishing methods because it damages seabed habitats, threatens marine biodiversity, reduces fish stocks, and undermines the sustainable use of aquatic resources. Using a descriptive-analytical method and library-based data collection, the study reviews domestic laws of Persian Gulf littoral states, regional environmental and fisheries arrangements, and major international instruments, including the 1982 United Nations Convention on the Law of the Sea, the 1995 UN Fish Stocks Agreement, FAO instruments, and United Nations General Assembly resolutions on destructive fishing practices. The findings indicate that although international law does not always expressly prohibit trawling as a single named method, the combined obligations of conservation, sustainable exploitation, precautionary management, prevention of marine environmental damage, and cooperation through competent regional organizations create a strong legal basis for restricting or prohibiting trawling where it endangers marine habitats and fish stocks. In the Persian Gulf, the ecological sensitivity of the region strengthens the duty of states to adopt stricter domestic measures, cooperate through RECOFI and ROPME, regulate fishing gear, monitor vessels, and enforce penalties against illegal or destructive fishing. The study concludes that Persian Gulf states must align national laws with international and regional commitments and treat destructive trawling not merely as a fisheries issue, but as a matter of marine environmental protection, sustainable development, and intergenerational equity.

**Keywords:** Trawling; Persian Gulf; International Law of the Sea; UNCLOS; UN Fish Stocks Agreement; FAO; RECOFI; ROPME; Marine Environmental Protection.

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## 1. Introduction

Protecting aquatic populations from threats to their reproduction and survival is a primary objective of safeguarding aquatic life in marine habitats. On the one hand, excessive and irresponsible exploitation of marine natural resources has endangered many species. On the other hand, coastal states are seeking to use new

opportunities to meet the growing international demand for aquatic products and fisheries by investing in fishing fleets and processing industries. However, some fishing methods are incompatible with the protection of aquatic life. One such method is trawling. Trawling refers to the capture of aquatic organisms by means of large, funnel-shaped fishing gear attached to boards on both sides and usually dragged along the seabed by a vessel. In other



words, trawling is essentially a form of bottom fishing that endangers aquatic life. For several years, trawling has been a serious concern in the Persian Gulf, making the legal analysis of trawling in the Persian Gulf from the perspective of domestic and international law highly significant in academic and legal studies.

The Persian Gulf region comprises eight countries, and the domestic laws of these states contain provisions on fishing and the protection of aquatic life. For example, under the domestic law of the Sultanate of Oman, following the enactment of the Marine Living Aquatic Resources Law No. 19/2019, Article 9 provides that fishing or activities related to living aquatic organisms, research, scientific studies, scientific experiments, or experimental fishing in fishing waters or on the seabed may not be conducted without obtaining a license from the relevant ministry. Under the same law, the use of fishing methods that harm marine habitats or affect the sea in any way, as well as the use of unauthorized hooks, equipment, and fishing tools, is prohibited. Therefore, under Article 10 of Oman's domestic law, trawling is implicitly prohibited.

According to the Law on the Maritime Areas of the Islamic Republic of Iran in the Persian Gulf and the Sea of Oman, the exploration, exploitation, conservation, and management of all living and non-living natural resources on the seabed, its subsoil, and the waters above it, as well as the enactment and enforcement of appropriate laws and regulations for the conservation and protection of marine habitats, are considered part of the sovereign rights and jurisdiction of the Islamic Republic of Iran in the exclusive economic zone. Furthermore, Article 18 of the same law emphasizes the necessity of protecting and preserving marine habitats and making optimal use of living resources and other stocks in the exclusive economic zone and continental shelf. Although this law does not explicitly refer to the fishing of aquatic organisms, Article 12 of the Law on the Protection and Exploitation of Aquatic Resources of the Islamic Republic of Iran, approved in 1995, prohibits the possession and use of unauthorized fishing gear and equipment. Article 22 of the same law also establishes penalties for fishing with unauthorized tools, equipment, and materials. In addition, pursuant to Article 3 of the Draft Law on the Punishment of Illegal Fishing in the Caspian Sea and the Persian Gulf, approved on August 27, 1979, any fishing gear and equipment, such as nets,

traps, hooks, and boats used by perpetrators of illegal fishing, shall be confiscated in favor of the Iran Fisheries Joint Stock Company.

In addition to the domestic laws of Persian Gulf states, the regional states adopted the Kuwait Regional Convention for Co-operation on the Protection and Development of the Marine Environment and the Coastal Areas in 1978 and established the Regional Organization for the Protection of the Marine Environment. This Convention, while declaring the Persian Gulf region a special area, has designed measures to protect the region's natural ecosystem through additional protocols. Pursuant to Article 7 of the Convention, contracting states undertake to take all necessary measures to prevent, reduce, and combat pollution in the marine area resulting from exploration and exploitation operations on the seabed, its subsoil, and the continental shelf, including the prevention of accidents and the response to pollution emergencies that cause damage to marine habitats. Article 8 also addresses pollution from other human activities and requires contracting states to combat such pollution.

At the international level, the development of modern techniques for exploiting marine living resources and the increasing human capacity to meet the food needs of a growing global population have necessitated the regulation of fishing. The importance of fishing was such that, at the 1958 Geneva Conference on the Law of the Sea, fishing and the conservation of the living resources of the high seas became the subject of an international convention (Mohammadi, 2019). Subsequently, under the 1982 United Nations Convention on the Law of the Sea, despite the principle of freedom of fishing, limitations were established in this regard. Pursuant to Article 61, paragraph 2, of this Convention, the coastal state is obliged, taking into account the best scientific evidence available, to ensure through proper conservation and management measures that the maintenance of living resources in its exclusive economic zone is not endangered by overexploitation. Where appropriate, the coastal state and competent international organizations, whether subregional, regional, or global, must cooperate to this end. From this perspective, the coastal state bears the primary responsibility for taking the necessary measures to prevent, deter, and eliminate illegal fishing and possesses the necessary jurisdiction to inspect, arrest,

and conduct judicial proceedings concerning illegal fishing violations by other states in order to ensure strict implementation of the relevant laws and regulations. If member states fail to implement the necessary measures to prevent illegal fishing, the coastal state may invoke the international responsibility of that state before competent international judicial bodies. However, the coastal state itself must not cause pollution, destroy habitats, or harm the rights of other states by violating the provisions of the law of the sea concerning the protection of habitats and aquatic resources. This is particularly important because many rules of the 1982 Convention have acquired customary status due to their widespread acceptance by members of the international community, and states may therefore be required to comply with them regardless of treaty membership (Khalili, 2012).

In 2004, the United Nations General Assembly adopted Resolution 59/25, urging states engaged in high seas fishing and regional fisheries management organizations to take urgent action to protect vulnerable marine ecosystems from destructive fishing practices in areas beyond national jurisdiction (Gianni, 2004; Gjerde, 2006). In December 2006, the United Nations General Assembly further adopted Resolution 61/105 on sustainable fisheries, calling upon flag states, regional fisheries management organizations, and other existing arrangements to act immediately for the sustainable management of fish stocks and the protection of vulnerable marine ecosystems from destructive fishing practices (Clark & Dunn, 2012; Gjerde, 2006). In 2009, Resolution 64/72 reaffirmed the 2006 resolution and clarified that the actions requested in Resolution 61/105 should be implemented in accordance with the 2009 FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas. This resolution placed particular emphasis on assessments examining the impact of bottom fishing on the high seas (Bensch et al., 2009).

In light of the domestic, regional, and international rules concerning the conservation of marine living resources, the central question is whether, given the increasing global demand for the exploitation of marine living resources and the fishing of aquatic organisms on the one hand, and the necessity of proper management of existing habitat resources and their conservation for future generations on the other, the general rules

concerning the conservation of marine habitats create an obligation to prohibit trawling as a fishing method. Answering this question, particularly in view of the specific environmental conditions of the Persian Gulf, requires a careful examination of the domestic laws and regulations of regional states and a review of existing international instruments concerning the law of the sea and the exploitation of marine resources.

## 2. Research Methodology

The research method employed in this study is descriptive-analytical. Given the theoretical nature of the research topic, a library-based approach was used for data collection and analysis.

### Theoretical Foundations and Research Background

A review of the existing literature indicates that trawling from the perspective of international law of the sea has not been specifically addressed in either English or Persian legal scholarship. However, the protection of the marine environment and aquatic life has been examined in a number of legal and non-legal works. The most relevant studies are discussed below.

Shima Naderi et al. (2022), in their article “Legal Approach of Persian Gulf Littoral States to Sustainable Development Indicators of the Marine Environment with Emphasis on International Environmental Law,” examine how the performance of Persian Gulf states, with emphasis on sustainable development indicators, can contribute to the sustainable development of the Persian Gulf marine environment. This article evaluates the performance of Persian Gulf states in relation to marine environmental sustainable development. Although the main subject of that study is not trawling in the Persian Gulf, its findings can be used in the present research (Naderi et al., 2022).

Moridnejad and Mazaheri (2011), in an expert report at the Research Center of the Islamic Consultative Assembly titled “Investigation of Environmental Priorities of the Persian Gulf and the Sea of Oman,” identify the most important marine environmental challenges of the Persian Gulf and the Sea of Oman, including fisheries management, and conclude that conservation measures adopted to slow destructive environmental activities lack sufficient effectiveness. This report is useful for clarifying the environmental issues of the Persian Gulf and the Sea of Oman from an expert perspective, although its main focus is not

specifically trawling in the Persian Gulf (Moridnejad & Mazaheri, 2011).

Currie (2004), in a study on the protection of the deep sea under international law, addresses the expansion of fishing activities into the deep sea and the resulting concerns regarding fish resources. The impacts of deep-sea fishing, due to the specific nature of these ecosystems, may have irreversible effects on the marine environment, including the destruction of coral reefs, sponges, associated vulnerable species, and deep-sea biodiversity. However, this work does not specifically address trawling in the Persian Gulf (Currie, 2004).

Bensch, Gianni, Dominique, Greboval, and Hjort (2009), in their global review of bottom fisheries in the high seas, provide a summary of the status of deep-sea bottom fisheries worldwide based on the best available information. In this work, trawling is identified as one of the most destructive fishing methods because it can cause irreparable damage by scraping large areas of ocean-bottom habitats. Such damage includes habitat destruction and a reduction in the populations of trawled species. However, the study does not examine the legal dimensions of trawling in the Persian Gulf (Bensch et al., 2009).

Clark and Dunn (2012) examine the spatial management of deep-sea seamount fisheries and the need to balance sustainable exploitation with habitat conservation. Their findings show that the overall objective of aquatic resource management must be to ensure the continuity and sustainability of resources and the protection of deep-sea biodiversity. Although these findings can be used in the present research, they do not directly address trawling in the Persian Gulf (Clark & Dunn, 2012).

Trawling, or bottom trawling, refers to a type of fishing for aquatic organisms carried out with a large funnel-shaped fishing net attached on each side to relatively large boards and usually dragged behind a vessel along the seabed. The most significant disadvantages of trawling arise from the stirring up of seabed sediments, which may destroy natural habitats, affect both living and non-living organisms, and reduce oxygen levels in the sea. This method causes severe damage to the seabed environment. Therefore, fishing with light nets on the water surface is fundamentally different from trawling, which uses heavy tools and equipment to scrape the seabed.

Fishing in the seas has a long history, as humans have engaged in fishing for subsistence since early times. Over time, however, significant changes in human life altered the nature of fishing. With the emergence of the modern era, traditional life gradually transformed into advanced societies. This evolutionary process created both advantages and disadvantages, and technological development had a major impact on fishing practices. Trawling is one of the negative consequences of this transformation. In the modern era, advanced equipment has contributed to the destruction of natural fishing environments, environmental pollution, and the endangerment of aquatic life. This threatens marine ecosystems and creates serious concerns and risks for the future of the human environment. As a result, fishing has shifted from a traditional subsistence activity to a commercial enterprise, and trawling has become one of its damaging global manifestations.

Determining the exact historical timeline of trawling by specifying a precise time and place may be difficult without first addressing two questions. First, were the rules and regulations concerning trawling observed, and were fishermen actually engaged in trawling activities? Second, have states accused one another of trawling due to their own interests?

Nonetheless, trawling began in the Pacific Ocean in 1876. In San Francisco Bay, a parallel trawl net used alongside a boat and operated by sailing or towed vessels proved highly effective compared with other methods, both in terms of equipment and catch volume. Consequently, trawling became common in San Francisco Bay. During the 1880s, steamships began to replace sailing vessels, and by 1888, the parallel trawl was used exclusively by pair-trawling steamships. In 1906, trawling was banned in San Francisco Bay due to declining fish stocks. In 1884, beam trawling off the Oregon-Washington coast was considered an effective method that could be towed by a single vessel.

The otter trawl was introduced in early 1908 but was not used consistently until 1926, when two vessels began fishing in the protected waters of Puget Sound, a waterway along the western coast of Washington State. Diesel engines became available during the 1920s and, like other technological developments, contributed to the rapid growth and expansion of trawling (Easley, 2000).

In June 1978, large productive trawling areas in British Columbia, Canada, were closed to American fishermen. This measure forced many Washington fishermen to shift their activities to United States waters, mainly off the coast of Washington. Although the impact assessment on fisheries and stocks had not been completed, some stocks, including those in the Pacific Ocean, were affected. Competition among vessels for fishing grounds increased significantly. In the early 1980s, some areas in British Columbia were reopened for limited fishing for two years as part of an agreement between the United States and Canada in exchange for Canada's gradual phasing out of halibut fishing in Alaska (Easley, 2000).

Illegal bottom trawling using small-mesh nets was one of the most difficult problems in fisheries management on the Korean Peninsula. This practice had occurred since the period of Japanese colonization. Eliminating illegal bottom trawling, which was regulated under the Fisheries Act of South Korea, was difficult because the number of vessel owners had increased to more than 3,000, creating a strong opposing lobby. Therefore, the Korean government implemented an incentive program to buy back vessels, which proved effective in eliminating illegal bottom trawling in Korean coastal waters (Easley, 2000).

In recent years, trawling has caused concern in the international community. Although it had destructive environmental impacts in the past, the absence of specific and effective laws contributed to an uncontrolled situation and made the adoption of appropriate rules necessary. With the advent of the modern era, however, this situation changed. Bottom trawling may be associated with illegal fishing when conducted contrary to conservation and management rules. The FAO Code of Conduct for Responsible Fisheries was adopted by the Conference of the Food and Agriculture Organization of the United Nations in October 1995. Its overall objective is to promote the rational, responsible, and sustainable development and exploitation of global fisheries. Through responsible management and conservation, states have sought to implement international instruments on illegal fishing and to restrict illegal bottom trawling (Easley, 2000; Food & Agriculture Organization of the United, 2022).

The FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated

Fishing called on states to take measures to ensure that nationals under their jurisdiction do not support or participate in illegal fishing. In doing so, states cooperate to identify and prosecute nationals who are operators or beneficial owners of vessels involved in illegal fishing. Where necessary, laws must be sufficiently stringent to deter nationals under a state's jurisdiction from engaging in illegal fishing, including through monetary fines, confiscation of fishing vessels and gear, and denial of future fishing permits (*FAO Fisheries and Aquaculture Report No. 889, 2008*).

The Korean government also sought to stop illegal bottom trawling by implementing new laws. However, because the industry was widespread, the government concluded that law enforcement alone was not a fundamental remedy. Therefore, it implemented an incentive program aimed at buying back illegal bottom trawl vessels, which produced successful results.

In 1929, the Japanese government permitted two types of bottom trawling based on geographical areas in Japanese coastal waters and international waters. It restricted bottom trawling by designating prohibited fishing areas in its coastal waters, while at the same time promoting bottom trawling in the waters of other states, including Korean waters and the East China Sea. The Japanese government allowed 200 bottom trawl vessels to operate in Korean waters. Nevertheless, states have often prioritized their own interests, and this pattern continues to recur. Yet this method causes environmental destruction and is harmful to the international community; therefore, states should refrain from such conduct.

Coastal states, islands, and peninsulas have historically engaged more extensively in trawling because fishing and marine trade have long served human food and economic interests. Over time, traditional methods gave way to modern methods, reflecting broader technological progress in human societies. Modern equipment and systems came to dominate fishing practices and contributed to seabed sweeping. This process has both advantages and disadvantages: on the one hand, it may generate economic benefits for the state engaged in it; on the other hand, it leads to environmental destruction and the loss of aquatic life. This trend has a significant impact on human societies and poses a serious threat to the interests and resources of future generations. States have generally limited their

own coastal waters through domestic law, but they have not always prohibited such activities in the coastal waters of other states or on the high seas. Although human societies, particularly developing countries, have suffered damage, some states have failed to react adequately. This situation has led to the adoption of numerous conventions, soft-law instruments, and resolutions in this field. Despite these international rules, some states continue to engage in trawling. International organizations must take serious action in this regard and should not be influenced by state policies. States at the national level, regional fisheries organizations, and other competent organizations must also respond decisively to offending states (*FAO Fisheries and Aquaculture Report No. 889, 2008*).

### 3. International Conventions Related to Trawling

Trawling is a global issue because it is linked to maritime trade, food security, and environmental protection. Fishing plays an important role in relations among states. Accordingly, states have addressed the seas through numerous conventions, soft-law instruments, and resolutions. Marine fishing is one of the most important topics in this field because it affects human life, the environment, nutrition, and the economy. States implement rules and regulations in this regard through international instruments.

Under the 1958 Convention on the Law of the Sea framework, the seas were divided into territorial seas and high seas, each governed by distinct rules and regulations. Coastal states reserved the right to exploit marine resources and regulate any exploitation within their territorial seas, applying their domestic laws to individuals within that area. Similarly, coastal states had authority to prohibit other states from fishing in their territorial seas and to reserve those waters for their own use. The territorial sea has always been under the control of the coastal state and subject to its rules and regulations ("*Convention on Fishing and Conservation of the Living Resources*").

The preceding paragraph discussed the territorial sea under the rules of international law as developed in 1958 and the rules applied to fishing in that maritime zone. The discussion now turns to the high seas, where different legal considerations apply.

No state may impose its jurisdiction on another state on the high seas, and fishing on the high seas has

traditionally been conducted according to international rules. The existence of two distinct systems—the territorial sea, where exploitation is under the control of the coastal state, and the high seas, where all states may exploit resources without interference from other states—shaped the basic legal assumptions governing fisheries resources. Because the extent of the territorial sea is inherently connected to the coast, determining the coastal state's exclusive authority over fisheries resources has always been important. Any expansion of the territorial sea may affect the fishing rights of other states in areas previously considered part of the high seas. Therefore, policies concerning the territorial sea have been influenced by the balance of fishing interests. The balance between each state's coastal-zone fishing interests and its interests in offshore areas of other states was discussed at the 1958 United Nations Conference on the Law of the Sea. Some states strongly opposed the expansion of the territorial sea. In order to protect fishing interests and navigational freedoms, including the passage of warships, the United States was willing to waive certain fishing interests if free navigation for warships in the coastal waters of other states was guaranteed. Accordingly, the United States proposed a 12-mile fishing zone and a 6-mile territorial sea, but this proposal was not adopted in the form proposed. These debates influenced the development of the 1958 and 1960 law-of-the-sea discussions ("*Convention on Fishing and Conservation of the Living Resources*").

In the past, optimal exploitation was generally associated with vast oceans, and the need to conserve high seas fisheries resources gradually became more apparent. Conservation thus became a central concept in fisheries. Nevertheless, a fundamental principle of international law was that all states were free to fish on the high seas unless limited by specific agreements. Prior to the 1958 Convention, several conservation treaties had already been introduced concerning high seas fisheries.

The idea of equal access to fishing and equal limitations on fishing also emerged as an important principle for states and conservation programs in various conventions. In this context, free competition formed the traditional basis of high seas fishing. Moreover, the provisions of these conventions and the subsequent actions of commissions implied that contracting parties

enjoyed jurisdiction over fishing vessels flying their flags on the high seas, reflecting the general principles governing the high seas.

The 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas incorporated the concept of conservation while preserving the essential features of traditional high seas fisheries law. It introduced the concept of a special interest of the coastal state, interpreted as granting the coastal state the right, even when its nationals were not fishing off its own coasts, to participate in conservation measures applicable to marine fisheries beyond its national jurisdiction. However, this did not disrupt the freedoms of the high seas, where fishing vessels remained subject primarily to the law of their flag state. Although the coastal state had authority to adopt and implement certain unilateral measures, the term "unilateral measures" should not be interpreted as a direct extension of coastal-state jurisdiction over the nationals of other states. Rather, in specific circumstances, fishing states may be obliged to apply measures unilaterally adopted by the coastal state for its own nationals ("[Convention on Fishing and Conservation of the Living Resources](#)").

The 1982 United Nations Convention on the Law of the Sea, widely recognized as the most comprehensive legal framework governing the seas, addresses this issue in detail. The Convention introduced the concept of the 200-mile exclusive economic zone, and Articles 55 to 75 specifically address this zone, particularly with respect to fishing. This development modified the traditional duality between the territorial sea and the high seas. The exclusive economic zone has a special legal regime, and the question of whether it remains part of the high seas is largely academic. Within the 200-mile exclusive economic zone, the coastal state exercises sovereign rights for the purpose of exploring, exploiting, conserving, and managing natural resources, including fisheries, while other states continue to enjoy freedoms such as navigation and overflight. On the other hand, the original idea of fishing freedom has been largely preserved on the high seas, albeit with modifications. While the 1958 Convention addressed applicable laws on the high seas beyond the territorial sea, the 1982 Convention addresses areas beyond the exclusive economic zone, which extends up to 200 miles from the coast. Freedom of fishing on the high seas remains one of

the fundamental freedoms, but it is subject to conditions relating to the conservation and management of living resources, as reflected in Article 87 ([Khalili, 2012](#)).

Another international convention relevant to this issue is the Convention on Biological Diversity, adopted in 1992 and entering into force in 1993. Like other environmental conventions, it emphasizes conservation and requires states not to cause environmental harm within their own territories or to other states. The Convention defines the ecosystem approach as a strategy for the integrated management of land, water, and living resources in a way that promotes conservation and sustainable use equitably. The ecosystem approach seeks to balance three objectives: the conservation of biological diversity, the sustainable use of biological diversity, and the fair and equitable sharing of benefits arising from the utilization of genetic resources. This approach is based on appropriate scientific methodologies focused on levels of biological organization that recognize the structures, processes, functions, and interactions among living organisms, while also acknowledging that humans and their cultural diversity are an integral part of many ecosystems ([Convention on Biological, 2011](#); "[Convention on Biological Diversity](#)," 1992).

#### 4. The Fish Stocks Agreement

The 1982 United Nations Convention on the Law of the Sea established a comprehensive legal regime for the conservation and management of marine living resources in areas under national jurisdiction and on the high seas. It also contained specific provisions on straddling and highly migratory fish stocks, over which coastal states exercised control only within their exclusive economic zones under the Convention. However, because the exclusive economic zone alone was insufficient for the conservation and management of straddling and highly migratory fish stocks, coastal states were concerned that other states might engage in destructive activities beyond the exclusive economic zone, including on the high seas. Coastal states therefore became more interested in managing marine conservation and fish stocks beyond the exclusive economic zone, a concern driven by both national interests and the need for conservation and management on the high seas. In response to the concerns of the international community, the 1992 United Nations

Conference on Environment and Development called for an intergovernmental conference under United Nations supervision to promote the establishment of effective rules in this field. The United Nations General Assembly subsequently convened such a process concerning straddling and highly migratory fish stocks. The resulting agreement, adopted in 1995 and entering into force on December 21, 2001, is regarded as one of the most important legally binding global instruments for the conservation and management of fishery resources and the promotion of responsible fishing ([Food & Agriculture Organization of the United, 2022](#); [Harrison, 2019](#)).

The preamble to the agreement, which refers to the provisions of the 1982 Convention, emphasizes that effective measures for the conservation of straddling and highly migratory fish stocks must be taken by flag states, port states, and coastal states. It also addresses problems in regional fisheries management raised at the Rio Conference, including illegal fishing. In addition, it highlights issues such as flag hopping to evade flag-state regulations, the use of inappropriate fishing gear, excessive capacity of large fishing fleets equipped with advanced fishing gear, illegal fishing, lack of fishing regulation, scarcity and unreliability of fisheries data, and insufficient cooperation among states ([Food & Agriculture Organization of the United, 2022](#); [Harrison, 2019](#)).

According to Article 2, the objective of the agreement is to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks through effective implementation of the provisions of the 1982 Convention. The agreement includes measures with extraterritorial implications, and according to Article 3, the conservation and management of straddling and highly migratory fish stocks apply beyond areas under national jurisdiction. However, Articles 6 and 7 also cover areas under national jurisdiction. Article 4 provides that the agreement shall be interpreted within the framework of and in accordance with the 1982 Convention. Article 5, which sets out general principles, requires coastal states and other states whose nationals fish on the high seas to cooperate in the conservation and management of straddling and highly migratory fish stocks and to take measures to ensure their long-term sustainability through proper exploitation and monitoring of relevant operational data. Article 6 requires states to assess target species catch,

minimize pollution, safeguard the biological diversity of marine resources, prevent overfishing, consider the rights of traditional fishers, collect supplementary data in a timely manner, particularly regarding the location of fishing fleets, encourage scientific research, implement conservation and management measures, and ensure compliance through effective monitoring and control methods. Article 6 also incorporates the precautionary approach, requiring states to apply it broadly to the conservation and management of straddling and highly migratory fish stocks. When information is uncertain, unreliable, or inadequate, states must act with greater caution, and the lack of adequate scientific information must not be used as a reason for postponing or failing to adopt conservation and management measures. Regarding the impacts of fishing on non-target species and harmful natural phenomena affecting straddling and highly migratory fish stocks on the high seas, coastal states and flag states must take necessary measures to prevent further deterioration. Article 8 requires states to cooperate directly or through competent regional organizations for the conservation of straddling and highly migratory fish stocks. Article 18, which addresses the duties of the flag state, requires states whose fishing vessels operate on the high seas to apply conservation and management measures and observe regional and subregional regulations. States issuing licenses to their vessels must effectively monitor their conduct to fulfill their obligations under the Convention and the agreement. These duties include issuing fishing licenses, controlling and monitoring vessel activities through national and regional inspection mechanisms, establishing national fishing regulations to ensure compliance with regional measures, and making fishing permits conditional upon vessels fulfilling their obligations. Article 19 addresses compliance and enforcement duties of the flag state. If vessels violate the provisions of the agreement, states must apply the measures set out in that article. Each member state must ensure that vessels flying its flag comply with regional regulations concerning the conservation of straddling and highly migratory fish stocks. Irrespective of where the violation occurs, vessels must comply with applicable regulations, and in the event of violation, the vessel may be inspected and the results reported promptly to the complaining state. Another measure against a violating vessel may be the refusal to issue a license for high seas

fishing. Penalties for repeated violations may include the revocation or suspension of the captain's license or prohibition of the vessel and captain from continuing their activities. The agreement clarifies the fundamental principle contained in the 1982 Convention that states must cooperate in taking necessary measures for resource conservation. Through regional fisheries management organizations, coastal states and states operating on the high seas must cooperate in the conservation and management of straddling fish stocks. The agreement also includes new principles, norms, and rules that progressively develop the relevant provisions of the Convention and address emerging challenges on the high seas. Conservation and management measures adopted in coastal areas must also be reflected on the high seas, and high seas rules must be compatible with those in coastal areas so that states operating on the high seas act consistently with coastal conservation measures (Food & Agriculture Organization of the United, 2022; Harrison, 2019).

The agreement was a major step forward in developing a comprehensive legal regime for the long-term conservation and sustainable use of highly migratory and straddling fish stocks. In particular, it emphasizes the conservation and management of global fisheries by strengthening the role and objectives of regional fisheries organizations. It also requires states to ensure that conservation and management measures are based on the best available scientific evidence and that, in cases of uncertainty, unreliability, or inadequacy of information, states apply caution. It further strengthens flag-state responsibility and emphasizes the compatibility of conservation and management measures adopted for areas under national jurisdiction and adjacent high seas areas in order to ensure the full conservation and management of fish stocks. States, whether directly as flag states or indirectly through regional organizations adjacent to exclusive economic zones and the high seas, must strive for the conservation and management of stocks (Harrison, 2019).

The role of regional fisheries organizations and the instruments under which they were established must also be considered. Regional commissions active in this field, specialized international organizations related to fisheries and aquatic life, and regional commissions such as ROPME and the Regional Commission for Fisheries are important in the Persian Gulf context. The two

organizations most relevant to the Persian Gulf are ROPME and RECOFI. These are important instruments in the field of aquatic life and fisheries management in the Persian Gulf. Effective measures must be taken by regional fisheries management organizations under international law, and solutions must be developed to prevent activities that cause pollution. Serious monitoring of the marine ecosystem must also be undertaken, and regional fisheries management organizations must cooperate with one another. States must interact to prevent regulatory gaps and comply with United Nations General Assembly resolutions in order to ensure an effective process. Several agreements address fishing conduct and protect against activities that destroy the marine environment, including rare species, such as the FAO Compliance Agreement. The most important global organization for fisheries requires flag states to authorize vessels fishing on the high seas and to provide information about such vessels for more effective monitoring. The Convention on International Trade in Endangered Species of Wild Fauna and Flora also prohibits trade in caught species listed in its annexes, making such trade illegal under the Convention. Many conventions and agreements address endangered or non-target species. Key areas related to decision-making in regional fisheries organizations include the precautionary approach, decision-making procedures that facilitate the timely and effective adoption of conservation and management measures, transparency in decision-making, dispute-prevention procedures, and strengthened decision-making for policy implementation. A clear shift in the role of regional fisheries organizations has occurred over the past century, and this trend has intensified since the adoption of key international fisheries instruments after the United Nations Conference on Environment and Development. In the first half of the twentieth century, the mandates of many regional fisheries organizations defined their role as research and advisory bodies rather than decision-making and implementing institutions (Food & Agriculture Organization of the United, 2022; Harrison, 2019).

## 5. International Conventions Related to Trawling

The 1982 United Nations Convention on the Law of the Sea contributed to increasing attention to the emerging role of regional fisheries management organizations. A

set of new activities was envisioned, prompting these organizations to review and amend their statutes and paving the way for the establishment of new organizations with broader mandates. Furthermore, the adoption of international fisheries instruments after the United Nations Conference on Environment and Development placed regional fisheries management organizations more prominently in the spotlight. In particular, the 1995 United Nations Fish Stocks Agreement aimed to create a coherent conservation and management process, and its reliance on regional fisheries management organizations is evident. These organizations are expected to become management authorities for establishing conservation and management measures for the high seas and for implementing those measures through member states. In many respects, however, their application extends beyond the high seas and non-member states. The Fish Stocks Agreement provides an extensive list of functions for regional fisheries management organizations and emphasizes their managerial role. These duties are particularly significant in relation to non-members and new entrants. They are mandatory for states in fulfilling their obligation to cooperate through regional fisheries management organizations and to agree on decision-making procedures that facilitate the timely and effective adoption of conservation and management measures. These obligations are accompanied by other provisions related to the precautionary approach, transparency, and dispute prevention. The international community's recognition of the need to strengthen fisheries governance has led to the review and amendment of the functions of some regional fisheries management organizations. At the same time, some organizations have identified limitations, including the reluctance of member states to delegate sufficient decision-making authority to regional bodies ([Food & Agriculture Organization of the United, 2022](#); [Harrison, 2019](#)).

Decision-making is only one of many elements related to governance by regional fisheries management organizations, and the development of performance indicators for self-assessment offers an objective means of providing information. Although three main elements of decision-making are recognized—political will, legal obligations, and institutional mechanisms—there has been limited analysis of the effectiveness of decision-making processes in specific regional fisheries

management organizations or of the adoption of particular decisions by such organizations. There is a wide range of objectives, functions, and decision-making processes among regional fisheries management organizations, and their relationship to the areas addressed in international instruments has been widely noted. Some organizations have increased the level of their decision-making activity ([Currie, 2004](#)).

Laws and processes concerning key decision-making within the framework of international agreements have also been referenced, and their importance in this field is evident. In relation to the Fish Stocks Agreement's call for improved decision-making in implementing the precautionary approach, many regional fisheries management organizations endorse or apply the precautionary approach, including through the establishment of reference points. Some organizations also identify room for improving data collection and management, and many endorse information and data sharing. These approaches support improved decision-making on issues related to precautionary management ([Currie, 2004](#)).

The functions of regional fisheries management organizations, as reflected in Article 10 of the Fish Stocks Agreement, include the obligation of states to agree on decision-making methods that facilitate the timely and effective adoption of conservation and management measures. In this regard, several areas are relevant: subsidiary bodies, principal bodies, the timely entry into force of conservation and management measures, and effective objection procedures consistent with timeliness criteria. Membership issues, including allocation criteria for new members, may also influence decision-making. The requirements of genuine interest, consistency with the interests of new members, and the nature and extent of participation rights are important in this regard. Most regional fisheries management organizations offer open membership subject to various conditions. The adoption of criteria determining the nature and extent of participatory rights of new members can facilitate the adoption of conservation and management measures and promote objectivity. Decision-making in subsidiary bodies is usually not provided for in the constitutive convention or agreement of the regional fisheries organization but may be found in its rules. In general, subsidiary bodies provide non-binding recommendations, and their decisions or reports

are adopted by consensus. The institutional structure of each regional fisheries management organization, including its subsidiary bodies, varies and may be complex. Clear decision-making procedures are necessary to ensure that recommendations are timely and effective. Decision-making procedures for conservation and management measures are usually included in the constitutive instrument of the regional fisheries organization and vary from unanimous decision-making to specified majority or simple-majority procedures with quorum requirements. Some organizations allow votes by secret ballot, roll call, or written communication between meetings when necessary (Currie, 2004).

The period between decision-making and the entry into force of conservation and management measures is usually determined in the constitutive instrument of the regional fisheries organization. If no objection procedure is used, the earliest entry into force among the regional fisheries organizations reviewed ranges from 60 days to six months. Objection procedures differ among regional fisheries organizations, but where an objection is raised, the longest period before entry into force may range from approximately 100 days to eight months or more. Various elements of objection procedures are relevant. To increase transparency in decision-making, regional fisheries management organizations have adopted observer procedures, including rules concerning observer competence, application procedures, and attendance at meetings. Although most regional fisheries management organizations address dispute settlement to some extent, many do not include detailed dispute-settlement provisions in their principal instruments.

The procedures for those carrying out such work and the dispute-prevention procedures referred to in the Fish Stocks Agreement have also been discussed. Some recently established regional fisheries management organizations have taken innovative steps in this area. The evolving role of regional fisheries management organizations as management bodies, as reflected in post-UNCED international instruments, has created new demands for decision-making within these organizations. Although such organizations have not always actively explored this area of governance, the current period of consolidation, in which post-UNCED instruments are being implemented, offers a basis for

clarifying decision-making procedures in regional fisheries management organizations.

The historical development of the role of regional fisheries management organizations and related international organizations, together with their regulations and arrangements, shows a clear evolution toward necessary measures to prevent pollution and the endangerment of marine ecosystems. Through regional organizations, states can prevent destructive actions by other states. This trend has intensified since the adoption of key international fisheries instruments following UNCED. In the first half of the twentieth century, regional fisheries management organizations approached fisheries management gradually and evolutionarily. Their duties and functions were based on the centuries-old concept of freedom of the seas, and resources were viewed as abundant. The focus of decision-making in most of these organizations was on serving as a forum for fisheries management rather than functioning as a true fisheries management organization. Despite intensified management efforts, international conflicts and catastrophic overfishing exceeded the capacity of many regional fisheries management organizations to prevent harm. The main reason is that the mandates of many such organizations define them as research and advisory bodies rather than decision-making and implementing institutions (Currie, 2004; Harrison, 2019).

The gradual process leading to the 1982 United Nations Convention on the Law of the Sea also increased attention to the emerging role of regional fisheries management organizations. The Convention envisioned a set of new activities, giving these organizations a greater role than their founders had originally intended, including research, analysis, data collection and exchange, and advisory functions in fisheries management. New activities associated with these organizations include protecting related stocks from depletion, conserving stocks beyond 200 nautical miles, advising coastal states on the conservation of stocks within the 200-mile zone, pursuing mandatory options, settling disputes, providing information to coastal states on fishing activities in high seas areas adjacent to their exclusive economic zones, transmitting appropriate minimum standards to coastal states, creating channels through which coastal states can fulfill their obligations to provide information on conservation and

management laws and regulations, making available information on the outer limits of exclusive economic zones, and applying stricter regulations for marine mammals than for other species. The identification of these activities in the 1982 Convention led regional fisheries management organizations to review and amend their conventions and paved the way for the establishment of new organizations with more modern mandates. Of the more than 30 existing marine regional fisheries management organizations, almost half were established after the adoption of the Convention. One reason is that the Convention initiated a period in which coastal states declared new sovereign rights over vast areas of ocean space (Currie, 2004; Harrison, 2019).

In subsequent years, the absence of a comprehensive international agreement on the management powers of regional fisheries organizations attracted increasing attention, especially as awareness of the scarcity of fisheries resources grew. The need to strengthen fisheries governance through regional fisheries management organizations consistently emerged as an urgent issue. It was recognized that, to be effective, these organizations require a clear mandate for fisheries resource management in full compliance with international law. Instruments and agreements that partially filled this legal gap include the 1995 United Nations Fish Stocks Agreement. In particular, the FAO Compliance Agreement, the FAO Code of Conduct for Responsible Fisheries, and subsequent international plans of action for the prevention, deterrence, and elimination of illegal fishing provide important rules concerning regional fisheries organizations ("[Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas](#)," ; [Food & Agriculture Organization of the United, 2022](#); [Harrison, 2019](#)).

The Compliance Agreement entered into force in April 2003, following receipt of the twenty-fifth instrument of acceptance. Unlike the Fish Stocks Agreement, however, the Compliance Agreement assigns the primary role of international coordination to the FAO rather than to regional fisheries management organizations. It also requires countries and regional organizations to report fishing performance to the FAO for more effective monitoring. Nevertheless, the Compliance Agreement recognizes the potential role of regional fisheries management organizations in relation to scope of

application, international cooperation, information exchange, and cooperation with developing countries ("[Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas](#),").

The voluntary Code of Conduct for Responsible Fisheries developed during the same general period as the Fish Stocks Agreement and closely follows its provisions. These guidelines apply to all fisheries and fisheries-related matters beyond those covered by the Fish Stocks Agreement. Regional fisheries management organizations are among the bodies responsible for implementing these guidelines. The International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing also addresses the role of regional fisheries management organizations in related activities ([Food & Agriculture Organization of the United, 2022](#)).

The Fish Stocks Agreement entered into force on December 11, 2001, following ratification by the thirtieth state, and it is one of the most comprehensive international instruments defining the role of regional fisheries management organizations, including references to decision-making. It was signed by numerous states and entities, and the number of ratifications has increased over time. Successive United Nations General Assembly resolutions have addressed the implementation of the Fish Stocks Agreement and the vital role of regional fisheries management organizations in that process. The agreement was also discussed by member states in informal meetings concerning its implementation ([Harrison, 2019](#)).

For the new role it creates for regional fisheries management organizations, the Fish Stocks Agreement sets out an extensive list of duties in Articles 10 and 30. These include the obligation of states, in fulfilling their duty to cooperate through such organizations, to agree upon and comply with conservation and management measures that ensure the long-term sustainability of stocks. States are also required to agree on participatory rights, such as the allocation of allowable catch or fishing effort levels. These and other requirements of Article 10 emphasize the emerging managerial role of regional fisheries management organizations and, consequently, the importance of effective decision-making.

The objective of the 1995 United Nations Fish Stocks Agreement is to establish a coherent conservation and

management process. This is reflected in the areas it addresses, including measures and principles for fisheries conservation and management, the functioning of regional and subregional fisheries organizations, and inspection. Its reliance on regional fisheries organizations is evident. The agreement provides a framework of precise rules for establishing multilateral conservation and management measures for straddling and highly migratory fish stocks. Through implementation of the agreement, regional fisheries organizations are expected to become management authorities for establishing such measures on the high seas and for enforcing them through member states (Currie, 2004; Harrison, 2019).

One feature of the Fish Stocks Agreement is its applicability to regional fisheries management organizations or arrangements. It does not appear to apply to regional fisheries organizations lacking a management mandate. However, in practice, organizations with advisory powers may apply its requirements appropriately, giving it broader relevance to regional fisheries organizations. Important functions that these organizations must address include new membership, transparency, scientific data collection, cooperation in scientific research, and responses to non-member states whose vessels undermine the effectiveness of high seas conservation and management measures. Effective implementation of the agreement requires regional fisheries organizations to play an active role and expand their functions in accordance with international law. The agreement contains comprehensive provisions regarding non-member states, which are not exempt from the obligation to cooperate in the conservation of fish stocks. In practice, vessels of non-member flag states may fish in the relevant area. This permits members to take deterrent measures, in accordance with international law, against non-members that undermine agreed conservation and management measures. Although this is consistent with the general provisions on state duties and responsibilities for high seas fishing in the 1982 Convention, its scope is broader. Since non-members do not participate in the decision-making process, they do not have the opportunity to opt out of agreed measures, but they may face consequences if they undermine those measures. The inclusion of such a provision demonstrates the growing importance that the

international community attaches to the management decisions of regional fisheries organizations (Harrison, 2019).

The Fish Stocks Agreement describes the rights of member states to apply conservation and management measures adopted by regional fisheries organizations on the high seas against vessels of states parties to the agreement, whether or not those states are members of the organization. For example, states must, through the regional fisheries organization, establish procedures for boarding and inspecting fishing vessels of any member state present in the high seas area, whether or not they are actually fishing. Regional fisheries organizations may specify serious violations beyond those mentioned in the agreement, and such violations may trigger enforcement actions. The comprehensive duties and responsibilities of regional fisheries organizations described in Article 10 include specific reference to decision-making duties and procedures. Other articles of the agreement also directly address decision-making by regional fisheries organizations or by states cooperating through them. This occurs in the context of the precautionary approach, organizational functions, transparency requirements, and dispute prevention. In implementing the precautionary approach, states must improve decision-making for fisheries conservation and management by obtaining and sharing the best available scientific information and using improved techniques to address risk and uncertainty (Currie, 2004; Harrison, 2019).

The duties of regional fisheries management include the requirement that states, in carrying out their obligations to cooperate through subregional or regional fisheries management organizations or arrangements, agree on decision-making procedures that facilitate the timely and effective adoption of conservation and management measures. States must ensure transparency in the decision-making process and other activities of such organizations and arrangements. States must also cooperate to prevent disputes and, for that purpose, agree on efficient and prompt decision-making procedures and, where necessary, strengthen existing procedures. These areas demonstrate broad international agreement on issues and approaches related to decision-making in regional fisheries organizations.

Strengthening the conservation and management role of regional fisheries organizations, as anticipated by

instruments adopted after the United Nations Conference on Environment and Development, together with public demands for accountability and transparency, required an authoritative and effective decision-making process. This was recognized by the FAO Committee on Fisheries at its 1995 session. Given the limited advisory powers of FAO regional fisheries organizations established under Article VI of the FAO Constitution, that session concluded that if effective regional fisheries conservation and management bodies were to be established within the FAO framework, agreements under Article XIV could be considered. This provided a basis for the subsequent review and reform of FAO regional fisheries organizations ([Committee on, 2022](#); [Currie, 2004](#)).

Deep-sea fishing activities are currently regulated by several international and regional conventions, together with non-binding instruments, soft law, and applicable national laws. The general framework of the law of the sea is provided by the Law of the Sea Convention, while more specific provisions on high seas fishing activities are found in the 1995 United Nations Fish Stocks Agreement, which applies to straddling and highly migratory fish stocks. Because deep-sea fishing activities affect biodiversity on the ocean floor as well as in the water column, the Convention on Biological Diversity is also relevant. In addition, relevant provisions exist in the FAO Compliance Agreement. Although this agreement was negotiated and became binding under the auspices of the Food and Agriculture Organization, it has not enjoyed universal support. There have also been efforts to list some target species in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Because some listed species may be harmed by deep-sea trawling, that convention is also relevant. In sum, while these international agreements provide a framework for action, important gaps remain in the effective regulation of this type of fishing on the high seas and in coastal-state waters ("[Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas](#)," ; [Convention on Biological, 2011](#); [Currie, 2004](#)).

In 1995, the FAO Code of Conduct for Responsible Fisheries, a voluntary, broad, and comprehensive instrument, established principles and standards for the conservation and management of all fisheries and

aquaculture, including the processing and trade of fish and fishery products, research, and the integration of fisheries and aquaculture into coastal-area management. These guidelines refer to the role of regional fisheries organizations in establishing a responsible international fisheries regime. Relevant provisions include the global scope of the guidelines, their application to participants including regional fisheries organizations, the obligation of regional fisheries organizations to cooperate in implementing the objectives and principles contained in the guidelines, and the requirement to apply the precautionary approach to the conservation, management, and exploitation of living aquatic resources. The role of regional fisheries organizations in achieving fisheries management objectives, providing management frameworks and methods, collecting data, providing management advice, applying the precautionary approach, describing management measures, and implementing the guidelines is therefore central. Where appropriate, international plans of action adopted under the Code of Conduct also define a role for regional fisheries organizations ([Food & Agriculture Organization of the United, 2022](#)).

The FAO, as a specialized agency of the United Nations, implements instruments and mechanisms to prevent destructive activities by states through regional fisheries management organizations. One of the most important methods at the international level is cooperation and interaction among states. Paragraph 3 of the United Nations Charter identifies international cooperation in solving economic, social, cultural, and humanitarian problems as one of the purposes of the United Nations. Just as contemporary international relations between developed states and weaker developing states are regulated and established, cooperation is also necessary in all fields to address injustice and implement the principles of global order contained in international agreements, including the United Nations Charter. Although international organizations often face legal gaps in implementation, they remain one of the most important avenues for international cooperation. Indeed, cooperation forms the basis of the philosophy behind the existence of regional fisheries management organizations. States cooperate scientifically, consultatively, administratively, and managerially to resolve regional problems. However, each regional organization is governed by the nature of its powers and

duties under its founding document, which must be consistent with international law (Currie, 2004; Food & Agriculture Organization of the United, 2022).

One characteristic of the Fish Stocks Agreement is its application to regional fisheries management organizations or arrangements. It does not appear to apply to regional fisheries organizations that lack a management mandate. However, in practice, those with advisory powers may apply its requirements appropriately, giving it broader application. Important functions that regional fisheries organizations must address include new membership, transparency, scientific data collection, cooperation in scientific research, and dealing with non-member states whose vessels undermine the effectiveness of high seas conservation and management measures. Effective implementation of the Fish Stocks Agreement requires regional fisheries organizations to play an active role and expand their functions and activities in accordance with international law. The agreement contains comprehensive rules regarding non-member states, which are not exempt from the obligation to cooperate in fish-stock conservation. In practice, vessels of non-member flag states may fish in the relevant area. This permits members, in accordance with international law, to take deterrent measures against non-members that undermine agreed conservation and management measures. Although this is consistent with the general provisions on the duties and responsibilities of states for high seas fishing under the 1982 Convention, its scope is broader. Because non-members do not participate in the decision-making process, they do not have the opportunity to opt out of agreed measures, but they may face consequences if those measures are undermined. The inclusion of such a provision clearly demonstrates the increasing importance that the international community attaches to the management decisions of regional fisheries organizations.

The Fish Stocks Agreement also describes the rights of member states to apply the conservation and management measures of regional fisheries organizations on the high seas against vessels of states parties to the agreement, whether or not they are members of the relevant organization. For example, states must, through regional fisheries organizations, establish procedures for boarding and inspecting fishing vessels of any member state present in the high seas

area, whether or not they are actually fishing. Regional fisheries organizations may specify serious violations in addition to those mentioned in the agreement, and such violations may activate enforcement measures. The comprehensive duties and responsibilities of regional fisheries organizations described in Article 10 include specific reference to decision-making duties and procedures. Other articles of the agreement directly address decision-making by regional fisheries organizations or by states cooperating through them. These provisions relate to the precautionary approach, organizational functions, transparency requirements, and dispute prevention. In implementing the precautionary approach, states should improve decision-making for fisheries conservation and management by acquiring and sharing the best available scientific information and using improved techniques to address risk and uncertainty (Currie, 2004; Harrison, 2019).

The duties of regional fisheries management include the requirement that states, in carrying out their obligations to cooperate through subregional or regional fisheries management organizations or arrangements, agree on decision-making procedures that facilitate the timely and effective adoption of conservation and management measures. States should ensure transparency in the decision-making process and other activities of such organizations and arrangements. States should also cooperate to prevent disputes and, for that purpose, agree on efficient and prompt decision-making procedures and, where necessary, strengthen existing procedures. These areas indicate broad international agreement on issues and approaches related to decision-making in regional fisheries organizations.

Strengthening the protective and managerial role of regional fisheries organizations, as envisioned by instruments adopted after the United Nations Conference on Environment and Development, together with public demands for accountability and transparency, required an effective decision-making process with authority. This was recognized by the FAO Committee on Fisheries at its 1995 session. Considering the limited advisory powers of FAO regional fisheries organizations established under Article VI of the FAO Constitution, that session concluded that if effective regional fisheries conservation and management bodies were to be established within the framework of the FAO

Constitution, then agreements under Article XIV could be considered. This provided a basis for the subsequent review and reform of FAO regional fisheries organizations.

Deep-sea fishing activities are currently regulated by several international and regional conventions, together with non-binding instruments, soft law, and applicable national laws. The general framework of the law of the sea is provided by the Law of the Sea Convention, while specific rules concerning high seas fishing activities are found in the 1995 United Nations Fish Stocks Agreement, which applies to straddling and migratory fish stocks. Since deep-sea fishing activities affect biodiversity on the ocean floor as well as in the water column, the Convention on Biological Diversity is also relevant. Relevant provisions also exist in the FAO Compliance Agreement. The Compliance Agreement was negotiated under the auspices of the Food and Agriculture Organization and became binding, although it has not received universal support. There have also been movements to place some target species in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Since some listed species may be harmed by deep-sea trawling, that convention is also relevant. Overall, while these international agreements provide a framework for action, key gaps remain in the effective regulation of this type of fishing on the high seas and in coastal-state waters.

In 1995, the FAO Code of Conduct for Responsible Fisheries, a voluntary, broad, and comprehensive instrument, established principles and standards for the conservation and management of all fisheries and aquaculture, including processing and trade in fish and fishery products, research, and integration of fisheries and aquaculture into coastal-area management. These guidelines refer to the role of regional fisheries organizations in establishing a responsible international fishing regime. They are global in scope and directed toward participants including regional fisheries organizations, which must cooperate in implementing the objectives and principles contained in the guidelines. Regional fisheries organizations must also apply a precautionary approach to the conservation, management, and exploitation of living aquatic resources. The role of these organizations in achieving fisheries management objectives, providing

management frameworks and methods, collecting data, providing management advice, applying the precautionary approach, describing management measures, and implementing the guidelines is therefore central. Where appropriate, international plans of action adopted under the Code of Conduct also define a role for regional fisheries organizations.

Given that the FAO is one of the specialized agencies of the United Nations, it plays an important role in implementing instruments and mechanisms to prevent destructive activities by states through regional fisheries management organizations. One of the most important methods at the international level is cooperation and interaction among states. Paragraph 3 of the United Nations Charter identifies international cooperation in solving problems of an economic, cultural, social, or humanitarian nature as one of the objectives of the United Nations. Just as contemporary international relations between developed states and weaker developing states are regulated and established, cooperation is necessary in all fields to address injustice and implement the principles of global order enshrined in international agreements, including the United Nations Charter. Although international organizations often face legal gaps in implementation, they remain one of the important avenues for international cooperation. Indeed, this cooperation forms the basis of the philosophy of regional fisheries management organizations. States cooperate scientifically, consultatively, administratively, and managerially to resolve regional problems. However, each regional organization is regulated according to the nature of its powers and duties under its founding document, which must be consistent with international law (Currie, 2004; Food & Agriculture Organization of the United, 2022).

Following the Third United Nations Conference on the Law of the Sea, states showed a growing tendency to cooperate and organize at the regional level. For this reason, states may cooperate through regional fisheries management organizations to prevent destructive effects in accordance with their goals and principles. These goals primarily include the conservation and management of living aquatic resources, the prevention of pollution, the protection of the interests of neighboring states, the establishment of a framework for allocating fish catches, the prevention of overfishing, the monitoring of fishing tools and equipment, and the

provision of dispute-resolution mechanisms in cases involving destructive conduct by offending states. The term “regional fisheries management organization” refers to a mechanism through which three or more states or international organizations that are parties to an international fisheries agreement or arrangement cooperate jointly in the management of stocks, including straddling, highly migratory, and shared aquatic stocks. Through the collection and compilation of scientific statistics and information, such organizations may function as technical forums, policymaking bodies, or decision-making institutions concerned with the development, conservation, management, and sustainable exploitation of stocks. The term may also refer to fisheries organizations that provide scientific information to other organizations responsible for the management of aquatic stocks (Currie, 2004; Harrison, 2019).

A regional fisheries management organization can take significant steps to protect the environment and prevent destructive activities carried out through modern tools and human activities. Such organizations work to protect marine ecosystems, and regional states must cooperate seriously in this field. The first regional fisheries management organization was established in 1902 as the International Council for the Exploration of the Sea. Subsequently, the International Whaling Commission was established in 1949, the General Fisheries Council for the Mediterranean in 1949, and the International Baltic Sea Fishery Commission in 1979. After the Second World War and the emergence of the United Nations era, the number of regional fisheries organizations increased significantly. In general, newer organizations have assumed missions and duties that extend beyond those assigned to organizations in the early twentieth century. This development throughout the twentieth century led the FAO to classify regional fisheries management organizations into three phases: the pre-United Nations Conference on the Law of the Sea phase, from 1902 to 1950; the law-of-the-sea negotiations phase, from 1951 to 1982; and the post-Third Conference on the Law of the Sea phase, from 1982 to the present.

FAO regional fisheries management organizations developed following the entry into force of the FAO Constitution, after the FAO was established as a specialized agency of the United Nations in October 1945. Twenty years later, the FAO established its

Fisheries Department, which addressed living resources of the oceans and freshwater. Within the United Nations system, the FAO is responsible for collecting, analyzing, interpreting, and disseminating information related to nutrition and agriculture. This responsibility also includes fisheries and marine aquatic resources (Food & Agriculture Organization of the United, 2022).

In general, there are nine FAO regional fisheries management organizations. The fundamental difference between FAO-affiliated and non-FAO-affiliated regional fisheries management organizations is that acceptance of non-coastal states is limited in some non-FAO organizations, whereas membership in FAO-affiliated organizations is generally open to all FAO members. Most FAO-affiliated organizations operate in tropical and subtropical regions, and, with the exception of the European Inland Fisheries Advisory Commission, most of their members are developing countries.

The FAO regional fisheries management organizations include the Asia-Pacific Fishery Commission, the General Fisheries Commission for the Mediterranean, the European Inland Fisheries Advisory Commission, the Committee for Eastern Central Atlantic Fisheries, the Committee for Inland Fisheries of Africa, the Western Central Atlantic Fishery Commission, the Latin American Inland Fisheries Commission, the Indian Ocean Tuna Commission, and the Regional Commission for Fisheries.

## 6. The Legal Basis for the Establishment of FAO Regional Fisheries Management Organizations

In general, FAO regional fisheries management organizations have been established under Article VI or Article XIV of the FAO Constitution. Paragraph 1 of Article VI authorizes the FAO Conference or Council to establish regional commissions or committees for the purpose of providing information and advice concerning the formulation and implementation of policies and cooperation in implementing those policies. Therefore, these organizations are primarily advisory and cannot directly exercise management functions. Organizations established under Article VI include the European Inland Fisheries Advisory Commission, the Committee for Eastern Central Atlantic Fisheries, the Committee for Inland Fisheries of Africa, the Western Central Atlantic Fishery Commission, and the Latin American Inland Fisheries Commission. Paragraph 2 of Article VI further provides that the FAO Conference, Council, or Director-

General may establish committees and working groups to study and report on matters relating to the purposes of the organization. The Western Central Atlantic Fishery Commission and the Committee for Inland Fisheries of Africa were established by FAO Council resolutions under this provision. FAO regional fisheries management organizations established under Article VI are financially and administratively dependent on, and supported by, the FAO. They do not have independent budgets, and their expenses are covered through the FAO's regular program and special voluntary financial contributions from member states. Their terms of reference and reporting processes are determined by the FAO or the FAO Conference. Within the framework of Article VI, committees or commissions established under this article have only advisory powers, jurisdictions, and duties. In addition to Article VI, regional fisheries management organizations may also be established under Article XIV of the FAO Constitution. Under Article XIV, the FAO Conference may, by a two-thirds majority of member votes, approve and submit to member states conventions and agreements relating to food and agriculture. This includes agreements concerning matters of particular interest and benefit to members in specific geographical regions. Agreements adopted under Article XIV, although concluded within the framework of the FAO Constitution, have their own legal character and may establish broader contractual obligations among the parties than those arising under the FAO Constitution itself (Currie, 2004; Food & Agriculture Organization of the United, 2022).

FAO regional fisheries management organizations established under Article XIV include the Asia-Pacific Fishery Commission, the General Fisheries Commission for the Mediterranean, the Regional Commission for Fisheries, and the Indian Ocean Tuna Commission. The founding agreements of these organizations provide an opportunity for them to play an effective role in the conservation and management of aquatic resources. In theory, the difference between Articles VI and XIV of the FAO Constitution is that organizations established under Article VI have an advisory role, whereas those established under Article XIV may perform functions beyond mere advice and may play a special role in addressing serious issues of aquatic resource conservation and management. At its twenty-first session, held in Rome in March 1995, the FAO Committee

on Fisheries observed that many existing regional fisheries management organizations had been established under Article VI and therefore possessed only limited advisory authority. It also noted that agreements establishing regional fisheries management organizations under Article XIV would provide a more suitable structure with greater decision-making powers and flexibility. From this perspective, the effectiveness of Articles VI and XIV depends less on the formal powers described in founding agreements than on the political will of member states to implement conservation and management measures for aquatic resources. At its twenty-second session, held in Rome in March 1997, the FAO Committee on Fisheries stated that organizations established under Article XIV possess stronger management powers, although they have not always exercised them continuously, and many of their activities have remained advisory in nature, including the provision of information and management recommendations for conservation and implementation by members (Committee on, 2022; Currie, 2004).

Neither FAO regional fisheries management organizations established under Article VI nor those established under Article XIV have fully exercised their potential powers in areas such as stock management, restricting access to stocks, allocating fishing effort or catch quotas, monitoring, control, inspection, and dispute resolution. A fundamental difference between regional fisheries management organizations and some other organizations is that the former may have an active secretariat. Particularly in the case of FAO regional fisheries management organizations, secretariat staff can raise issues requiring activities beyond their normal roles, duties, and functions.

The activities of fisheries management organizations aim to protect and manage aquatic resources by addressing conservation programs, controlling catches, assessing the capacity of target areas for rare species, collecting information on illegal and unreported fishing, monitoring fishermen's activities, implementing scientific research projects, and monitoring sustainable stocks to prevent environmental degradation. The performance of regional fisheries management organizations can contribute to the growth of aquatic organisms. As fishing effort pressure on aquatic stocks increases, the role of regional organizations in fisheries management and stock exploitation becomes more

important. One of the most significant reasons for declining catches has been the improper application of fisheries management in international waters, in shared waters between states, and even within the coastal waters of states (Currie, 2004).

Only a limited number of organizations have been able to perform some of their fisheries management duties effectively. Most regional fisheries management organizations have not been able to play a constructive role due to financial problems, weak organization, or the absence of necessary international rules and regulations for applying fisheries management. Therefore, changes in their duties, functions, organization, and powers appear necessary. In some areas, subregional organizations should be established to protect aquatic stocks and control fishing methods and exploitation. Failure to do so will lead to the decline of aquatic stocks and severe damage to renewable resources.

Through consultations with states, the FAO concluded that changes in the structure, powers, and duties of regional fisheries organizations were necessary and that such organizations should be strengthened. The FAO's method for strengthening organizations has been to establish them under Article XIV rather than Article VI of the FAO Constitution. With this change, decision-making and implementation are carried out by member states without requiring approval by the FAO Director-General. Under the new conditions, the management of these organizations is funded by member-state budgets, and their resolutions are implemented more directly. In recent years, the FAO has taken steps to eliminate some organizations, including the Indian Ocean Fishery Commission, and to change the structure of others. Among the organizations whose structures have been changed are the Indian Ocean Tuna Program, which became the Indian Ocean Tuna Commission, and the Committee for the Development and Management of the Fishery Resources of the Persian Gulf and the Sea of Oman, which became the Regional Commission for Fisheries in early 2001 (Currie, 2004; Food & Agriculture Organization of the United, 2022).

The FAO Committee on Fisheries, at its twenty-first session in March 1995, emphasized the need to change the structure, powers, and jurisdictions of regional fisheries management organizations and to establish them under Article XIV of the FAO Constitution in order to increase their powers and move them beyond a purely

advisory role. It also noted that, when changing the structure of organizations, the sovereign rights of each member state must be considered.

## 7. Emphasis on Increasing the Efficiency of Fisheries Management Organizations

Many regional fisheries management organizations, whether affiliated with the FAO or not, were established at a time when aquatic resources were abundant and legal regulation was limited. This situation appears to have changed, particularly in the last decade of the twentieth century, as fisheries management became increasingly global in nature.

## 8. Conclusion

Trawl fishing is an important and influential issue at the international level because it is related to common human food resources, global trade, and national economies. With the transition from the traditional era, when fishing was primarily a subsistence activity, to the modern era, newer fishing tools and equipment emerged. States, seeking greater economic benefits, increasingly resorted to the overexploitation of marine resources through methods such as trawl fishing. However, as with other common global interests, states must follow rules in this field in order to preserve shared living and non-living resources. In addition to general instruments such as the 1982 United Nations Convention on the Law of the Sea, which has contributed to the development of customary international law, and the 1992 Convention on Biological Diversity, other international instruments also address marine-resource conservation and responsible fishing. The Fish Stocks Agreement, hard-law and soft-law instruments under the FAO, such as the Compliance Agreement, the Code of Conduct for Responsible Fisheries, the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, subsequent agreements, United Nations General Assembly resolutions, regional fisheries organizations, and regional fisheries commissions have all played significant roles in this field ("Convention on Biological Diversity," 1992; Food & Agriculture Organization of the United, 2022; Harrison, 2019; Khalili, 2012).

The general obligation of states to implement international rules and regulations domestically

requires them to align their domestic regulations with international obligations and to enact appropriate domestic laws and regulations. The universal or customary nature of some international rules concerning the protection of living biological resources also makes compliance with these rules mandatory even for non-party states.

The necessity of international cooperation in shared waters extends beyond these issues and is often manifested through the establishment of regional organizations and arrangements. In the Persian Gulf region, two organizations are particularly active. First, the FAO plays an active role through the Regional Commission for Fisheries. Second, the Regional Organization for the Protection of the Marine Environment operates in the region in light of the relevant convention and the geographical conditions of Persian Gulf states. For this reason, Persian Gulf littoral states are obliged to comply with international and regional instruments in their domestic laws and to cooperate through the aforementioned organizations. Part of these obligations and forms of cooperation concerns the protection of fish resources and fishing methods. In accordance with the findings of this research, these obligations should lead to the restriction of trawl fishing and other methods that cannot responsibly control and protect fish resources in the Persian Gulf.

### Authors' Contributions

Authors contributed equally to this article.

### Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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### Declaration of Interest

The authors report no conflict of interest.

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### Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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