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The United Nations Convention on the Law of the Sea, or to use its acronym, UNCLOS, contains a framework for co-operation on management and conservation for the high seas beyond the limits on national jurisdiction. Unfortunately, it leaves legal rights and obligations applicable to straddling stocks—and other stocks not under the exclusive management of coastal states such as highly migratory species—in an ambiguous state. The specific rights of coastal states and the concomitant obligations of the high-seas fishing states are only vaguely sketched out in the Law of the Sea Treaty. The resulting legal uncertainty leaves these stocks vulnerable to overfishing on the high seas by fleets from distant fishing countries.

Under UNCLOS the basis for regulating fisheries within 200 miles is clear. The task coastal states face there is to put in place measures needed to conduct the fishery on a sustainable basis. The responsibilities are very clearly established, even if there may at times be deficiencies or errors in the exercise of that authority. Those coastal states fortunate enough to possess resources have assumed this responsibility and have developed effective management regimes at considerable cost to themselves.

But how is that obligation to be given practical effect? This is not a theoretical question but a practical problem that if not addressed effectively, on an urgent basis, will continue to give rise to ecological disasters wherever straddling stocks are found.

This serious gap in the international legal framework affects conservation of important fish stocks in a number of areas of the world: hake and squid in the southwest Atlantic on Argentina's Patagonian Shelf; orange roughy on the Challenger Plateau off New Zealand; tuna in the south Pacific; and blue whiting and jack mackerel in the east central and southeast Pacific. There is also northern cod off Newfoundland's northeast coast which is managed by Canada, but which can be fished, to a limited extent, outside 200 miles.

It is worth noting that there are overfishing problems in most of these areas, whether or not a regional fisheries organization has been established. Destructive overfishing takes place unless there is agreement on effective management among all participants in the fishery.

Let us briefly review what this serious gap in the legal framework has meant to Canada's Atlantic fisheries and the fishermen, plant workers and communities that depend on them.

In 1977, Canada extended its fishing jurisdiction to 200 nautical miles, the maximum permitted under the law of the sea. However, the Grand Banks of Newfoundland extend beyond 200 miles in two important fishing areas known as the nose and tail of the Grand Banks. Cod, flounder and redfish migrate back and forth across the 200-mile limit in those areas.

Conservation requires regulation of fisheries outside 200 miles in international waters, as well as inside 200 miles. Canada and other countries that fish in this area formed the Northwest Atlantic Fisheries Organization, or to use its acronym, NAFO, in 1979. Until 1985, NAFO worked reasonably well. Catches were limited to levels recommended by scientists, and fisheries resources that had been depleted by overfishing before 1977 began to rebuild.

In 1986 Spain and Portugal joined the European Community, and the EC began to opt out of NAFO conservation decisions and set far higher quotas for its fleet. Since then, heavy fishing by EC fleets has been a major cause of decline in cod and flounder stocks on which Canadian fishermen and plant workers rely. From 1986 to 1990 EC fleets alone reported catches of cod, flounder and redfish totalling more than 530,000 tonnes, more than five times the quotas assigned to the EC by NAFO.

The question is how to give practical effect to the obligations of distant fishing states to co-operate with each other and the appropriate coastal states in the conservation of fish stocks on the high seas.

Canada has been seeking a global solution, an effective, enforceable framework for conservation and management of resources beyond the 200-mile limit.

The attainment of such rules is the purpose behind what has been called Canada's legal initiative. These rules would clarify and lend substance to the vague provisions in UNCLOS.