



# The CAOFA Agreement: Key Issues of International Fisheries Law

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# Overview presentation

- The Participants in the Five-plus-Five Process
- A Unique Scenario
- The Participants' Interests
- The Package Deal
- Concluding Observations



# The Participants in the Five-plus-Five Process

- Not just the Arctic Five vs the Other Five
  - Denmark on behalf of the Faroe Islands and Greenland (DFG): hybrid
  - 6 Arctic States (Arctic Five + Iceland) or: 6 Arctic Ocean coastal States
  - EU: acting in a *de facto* capacity of high seas fishing State, but also representing 3 Arctic States
  - China, EU, Japan and South Korea all have (*de facto*) Observer status with the Arctic Council



# A Unique Scenario

- The Five-plus-Five had opportunity to determine the conditions under which a future high seas fishery would be allowed to commence
- The Arctic Five had already seized this opportunity by means of 2015 Oslo Declaration, which has two key elements
  - Geographical scope: only the high seas portion of the central Arctic Ocean
  - Qualified abstention from high seas fishing
- The Other Five agreed to use these two key elements as a point of departure and these also ended up in CAOFA Agreement



# The Participants' Interests

- These two key elements create a fundamental difference between the central Arctic Ocean fisheries interests of the Arctic Five on the one hand, and the Other Five on the other
- In essence, the Other Five will be more inclined to favor commencement of high seas fishing than the Arctic Five
  - Arctic Five only supportive of commencement if either they intend to participate in high seas fishing themselves, or if such fishing would not significantly conflict with their coastal State interests
    - utilization-oriented coastal State interests
    - conservation-oriented coastal State interests



# The Participants' Interests (cont.)

- Interests in the broader domains of international fisheries law, the international law of the sea and the international law relating to the Arctic
  - Some of the Other Five had concerns on 'multilateral creeping coastal State jurisdiction' in the BBNJ Process & the Five-plus-Five process
  - Dissatisfaction of China, EU, Japan and South Korea with their inferior participatory status in the Arctic Council, the Arctic Council System & new, more peripheral Arctic bodies



# The Package Deal

- All these interests of the participants eventually led to a package deal on 4 components
  1. decision-making;
  2. the requirements for entry into force;
  3. duration of the Agreement; and
  4. recognition of the special responsibilities and interests of the Arctic Five in the central Arctic Ocean



# Concluding observations

- The CAOF Agreement is in many ways a landmark agreement
  - Application precautionary approach
  - Important step in gradual transformation of the freedom of the high seas
- The equality of the Five-plus-Five under the CAOF Agreement only exists in form
- Optimal use of the CAOF Agreement's full potential in precautionary and ecosystem-based fisheries management





# Thanks!

Questions?



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