

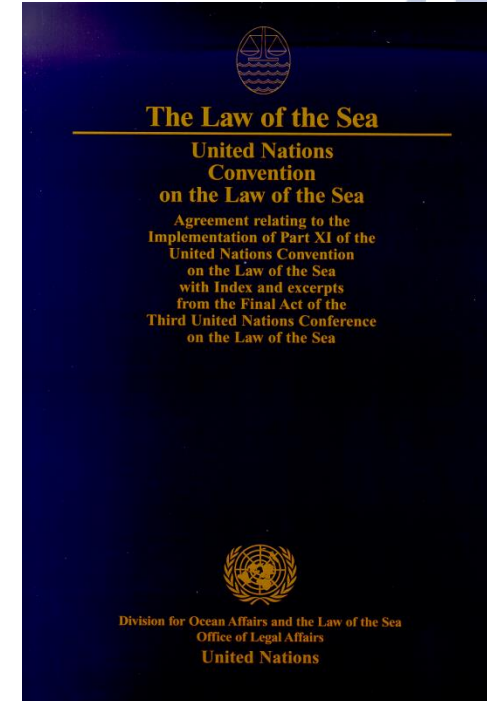
# The 1982 United Nations Convention on the Law of the Sea and maritime safety in the fishing sector



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# United Nations Convention on the Law of the Sea (UNCLOS)

- ‘A constitution for the oceans’
- Comprehensive legal instrument dealing with all aspects of our interaction with the oceans
- Legal framework within which all activities in the oceans and seas must be carried out
- Incorporates agreed compromises and balances, thus constituting a ‘package’



# Status of UNCLOS and its Implementing Agreements

**UNCLOS (10 December 1982):** 157 Signatories, 168 Parties;  
Entry into force on 16 November 1994

**Part XI Implementation Agreement (28 July 1994):**

79 Signatories, 150 Parties; Entry into force on 28 July 1996

**United Nations Fish Stocks Agreement (4 August 1995):**

59 Signatories, 89 Parties; Entry into force on  
11 December 2001

# UNCLOS and other international bodies

- As a framework convention, UNCLOS provides for further development in specific areas of the law of the sea
- Duty on States to cooperate at global, regional and subregional levels
- “Competent” or “appropriate” international organizations, “International organizations”, “Specialized agencies”



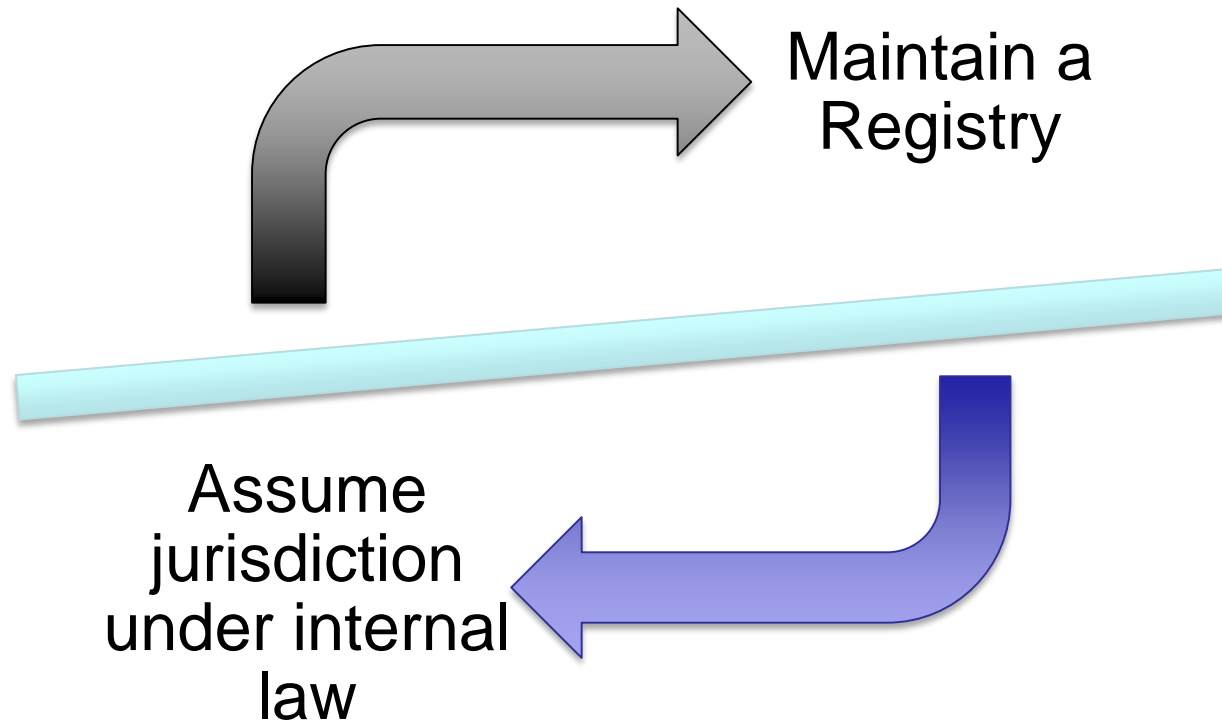
# Duties of the Flag State

UNCLOS sets out general obligations on Flag States in authorizing its vessels to fly its flag

- Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a “genuine link” between the State and the ship (article 91).
- Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag (article 94).



# Duties of the Flag State (art. 94)



# Duties of the Flag State (art. 94)

- Take such measures as are necessary to ensure safety at sea regarding:
  - Construction, equipment and seaworthiness of ships
  - Compliance with applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment from vessels



# Duties of the Flag State (art. 94)

- Take such measures as are necessary to ensure safety at sea regarding:
  - Manning of ships, labour conditions and the training of crews



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# Measures to be taken by the Flag State

- Each State is required to adopt measures that conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance



# ITLOS Advisory Opinion on the Request submitted by the SFRC

- Examined the flag State responsibilities under article 94
  - the list of measures that are to be taken by the flag State to ensure effective exercise of its jurisdiction and control over ships flying its flag in administrative, technical and social matters is only indicative, not exhaustive
  - the flag State is under the obligation to inform the reporting State about the action taken to investigate and remedy
  - must adopt the necessary administrative measures to ensure that fishing vessels flying its flag are not involved in activities which will undermine the flag State's responsibilities under the Convention [relating to IUU fishing]



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# Lack of effective control by a Flag State

## State A

A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State.



## State B

Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.



# Selected other relevant provisions

- Duty to render assistance under article 98
- Enforcement by flag States in cases of marine pollution under article 217 et al.



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# Other relevant fora

- United Nations General Assembly
  - Resolutions on oceans and the law of the Sea
  - Resolutions on sustainable fisheries
- Review Conference on the United Nations Fish Stocks Agreement
  - 2016 outcome looked at labour conditions on board fishing vessels

# Thank you!



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