

## CHAPTER 6

### International co-operation and agreements

Chile is an active member in many of the international forums and agreements governing fisheries and the oceans. Indeed, Chile was in the vanguard of the movement to extend the EEZ out to 200 nautical miles. Chile is one of the original signatories of the 1952 Declaration of Santiago on Maritime Zone ('Declaración de Santiago sobre Zona Marítima'), in which Chile, Peru and Ecuador proclaimed their exclusive sovereignty and jurisdiction over their coastal waters '... up to a minimum distance of 200 miles' from their coastlines, including the corresponding seabed and its subsoil. This declaration proclaimed the right to impede an irrational exploitation of the natural resources, which might jeopardize their existence, integrity and conservation, negatively affecting local populations that possess in those waters and land irreplaceable sources of livelihood and economic wealth that are vital to them.<sup>1</sup> To implement this agreement, the three countries created the Permanent Commission of the South Pacific, CPPS, an international juridical body with full capacities to undertake agreements, etc. In 1979, Colombia joined the CCPS. In 1982, the rest of the world followed with the UNCLOS agreement establishing the 200 miles EEZs on a worldwide basis.

This chapter reviews the status of Chile's engagement in the international fisheries arena. While Chile is also a member of many international financial, foreign investment and trade-related agreements that have an impact in fisheries, the focus in this chapter is on those international instruments that directly concern fisheries.

#### Overview

Table 6.1 provides a summary of the fisheries-related treaties and conventions to which Chile is a signatory. It is clear from the summary that Chile has ratified the major treaties and conventions that are in place. The

notable exception is the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and High Migratory Fish Stocks. Known as the UN Fish Stocks Agreement (UNFSA), it came into force on 11 December 2001 and currently has 68 signatories. The UNFSA is the implementing framework for the operation of regional fisheries management organisations (RFMOs) and the management of international fisheries.

Chile is also participating in an initiative with Australia and New Zealand to form a new RFMO aimed at managing unregulated fishing effort in areas adjacent to the Chilean EEZ and in the South Pacific, where Chilean interests are mainly focused on the straddling jack mackerel fishery. Negotiations began in 2006 and are still underway to form this RFMO, known as the South Pacific RFMO (or SPRFMO), and no end date for negotiations has been set. A Science Working Group and a Data and Information Working Group have been established. There are now over 20 states, as well as IGOs and NGOs, engaged in the process. The SPRFMO has yet to come into force.

An ongoing international issue is the dispute with Peru over the international maritime limits between the two countries. This issue is currently before the International Court of Justice in The Hague.

**Table 6.1. International fisheries-related treaties and conventions signed by Chile**

<b>Treaty-Convention</b>	<b>Year of enactment</b>
Declaration of Santiago on Maritime Zone (200 miles)	<b>1954</b>
The Antarctic Treaty	<b>1961</b>
Convention for the protection of flora, fauna and scenic views	<b>1967</b>
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	<b>1975</b>
International Convention for the Regulation of Whaling (International Whaling Commission)	<b>1979</b>
Convention for the Conservation of Antarctic Seals	<b>1980</b>
RAMSAR Convention on Wetlands	<b>1981</b>
Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)	<b>1981</b>
Convention on the Conservation of Migratory Species of Wild Animals, CMS	<b>1981</b>
Convention for the Environmental Protection of Coastal Zones in the Pacific South East	<b>1986</b>
FAO's Code of Conduct for Responsible Fisheries (CCRF)	<b>1991</b>
United Nations Conference on Environment and Development (Río Summit or Earth Summit, Agenda 21)	<b>1992</b>
Convention on Biological Diversity (Biodiversity Convention)	<b>1994</b>
United Nations Convention on the Law of the Sea (UNCLOS)	<b>1997</b>
Agreement Proposal for the Conservation of Live Marine Resources on the Pacific South East Seas	<b>2001</b>
Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas(1)	<b>2004</b>
(1) Enacted only in 2005, after specific regulations are put in place	
Action Plan to Prevent, Discourage and Eliminate Illegal, Unregulated and Unreported Fishing (IUU)	<b>2005</b>
Agreement for the Conservation of Albatrosses and Petrels (ACAP)	<b>2005</b>
Multilateral and bilateral Free Trade Agreements (various countries and years)	<b>various</b>

Source: Chapter 5 of this report.

## Review of individual agreements

### *The Antarctic Treaty of 1961 ('Tratado Antártico')*

Locally enacted in 1961, through Decree 361 (Foreign Affairs), this agreement was originally signed by 13 countries in 1959, including Chile, and aims at ensuring that the continent of Antarctic be used for peaceful purposes only, favoring international co-operation and scientific research, while preventing actions that may lead to international disputes.

### *Convention for the protection of flora, fauna and scenic views of 1967 ('Convención para la Protección de la flora, fauna y bellezas escénicas')*

This agreement, enacted through Decree 531 of 1967 (Foreign Affairs) aims at preserving America's flora and fauna from extinction, and asserts that areas of extraordinary scenic beauty, geological, historic or scientific interests neither be threatened nor irrationally intervened.

### *Convention on International Trade in Endangered Species of Wild Fauna and Flora, of 1975 CITES, ('Convención sobre el Comercio Internacional de Especies Amenazadas de la Flora y fauna silvestre')*

This agreement was approved through Decree Law 873 of 1975, and was enacted as a law by Decree 141 (Foreign Affairs) of the same year. It aims to control international trade in endangered species.

### *International Convention for the Regulation of Whaling, 1979, International Whaling Commission. ('Convenio Internacional para la regulación de la caza de la ballena')*

The International Whaling Commission (IWC) is an international body set up by the terms of the International Convention for the Regulation of Whaling (ICRW) which was signed by fourteen countries – among them, Chile- in Washington on 2 December 1946 to "provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry". This Convention was only enacted locally in 1979, through Decree 2.700 (Foreign Affairs).

More recently, and through Decree 179 of 2008, Chile prohibits whaling on forty three cetaceans in local jurisdictional waters.

*Convention for the Conservation of Antarctic Seals, 1980*  
(*'Convención sobre Conservación de Focas Antárticas'*)

Dating from 1978, this complements the Antarctic Treaty. It was officially enacted in Chile by Decree 191 of 1980 (Foreign Affairs), to protect Antarctic seals and balance local ecosystems. Through it, capture areas are designated, and closed seasons established. No related commercial activity has been registered since this agreement was signed.

*RAMSAR Convention on Wetlands, 1981* (*'Convención sobre zonas húmedas de importancia internacional, especialmente como hábitat de aves acuáticas'*)

This international agreement, locally enacted in 1981 by Decree 771 (Foreign Affairs), aims at stopping the progressive occupation and disappearance of wetlands, the fragile ecologic systems that are generally home of a varied wild life. The official document recognizes the importance of wetlands, their ecological functions, and their economic, historic, scientific and recreational values.

*Convention on the Conservation of Antarctic Marine Living Resources, CCAMLR* (*'Convención sobre la Conservación de los Recursos Vivos Marino Antárticos 1981'*)

This agreement was enacted locally in 1982, and was originally signed in Australia in 1980. In Chile it was approved by Decree 662 de 1981 (Foreign Affairs). Conservation measures approved by the Commission in 2007 have been officially adopted by Decree 205 (Foreign Affairs) of that year.

This act came into force in 1982 as part of the Antarctic Treaty System in pursuance of the provisions of Article IX of the Treaty. It was established mainly in response to concerns that an increase in krill catches in the Southern Ocean could have a serious effect on populations of krill and other marine life; particularly on birds, seals and fish, which mainly depend on krill for food.<sup>2</sup>

The aim of the Convention is to conserve marine life of the Southern Ocean. However this does not exclude harvesting carried out in a rational manner. Achievement of this aim is far from simple – it requires the collection of large quantities of information and the development of appropriate scientific and analytical techniques. A ‘precautionary’ approach has been implemented to minimize risk associated with unsustainable practices in conditions of uncertainty. This approach is complemented by the need to take into account ecological links between species and ‘natural’ as opposed to ‘human-induced’ variability – the ‘ecosystem approach’.

*Convention on the Conservation of Migratory Species of Wild Animals, CMS, 1981 (‘Convenio sobre la conservación de especies migratorias de la fauna Salvaje’)*

The Convention on the Conservation of Migratory Species of Wild Animals (also known as CMS or Bonn Convention) aims at conserving terrestrial, marine and avian migratory species throughout their range. It is an intergovernmental treaty, concluded under the aegis of the United Nations Environment Program, concerned with the conservation of wildlife and habitats on a global scale. Since the Convention's entry into force, its membership has grown steadily to include 109 (as of 1 August 2008) parties from Africa, Central and South America, Asia, Europe and Oceania.<sup>3</sup> In Chile it was enacted by Decree 868 of 1981 (Foreign Affairs).

*Convention for the Environmental Protection of Coastal Zones in the Pacific South East, 1986 (‘Convenio para la protección del medio ambiente y la zona costera del Pacífico Sudeste’)*

Originally signed in 1981 in Lima, Peru, it was enacted in Chile by Decree 296 (Foreign Affairs) of 1986. Signatory countries include Chile, Peru, Equator, Panama and Colombia. It aims at improving regional co-operation to reduce, control and prevent marine pollution in the area through different mechanisms.

*Convention on Biological Diversity, known informally as the Biodiversity Convention, 1994 (‘Convenio sobre Diversidad Biológica’)*

This convention was enacted in Chile through Decree (Foreign Affairs) 1.963 of 1994, and is a treaty that was adopted in Rio de Janeiro in June 1992, with three main goals: i) conservation of biological diversity (or biodiversity); ii) sustainable use of its components; and iii) a fair and equitable sharing of benefits arising from genetic resources. In other words,

its objective is to develop national strategies for the conservation and sustainable use of biological diversity. It is often seen as the key document regarding sustainable development.

The Convention was opened for signature at the Earth Summit in Rio de Janeiro on 5 June 1992 and entered into force on 29 December 1993.

*United Nations Conference on Environment and Development - alternatively, Rio Summit or Earth Summit- 1992, Agenda 21 ('Conferencia sobre el Medio Ambiente y el Desarrollo, o Cumbre de Río de Janeiro, Agenda 21'),*

Agenda 21 is a program run by the United Nations related to sustainable development. It is a comprehensive plan of action to be taken globally, nationally and locally by organizations of the UN, governments, and major groups in every area of human impact on the environment. Chile was among the 188 signatories that subscribed to the document in 1992, aimed at promoting sustainable development.

UNCED's proposal to establish National Councils for Sustainable Development motivated Chile to create one of his own, the Chilean Council for Sustainable Development, CCSD, through Decree 90 (Secretariat General for the Presidency) of 1998. This Council aims at implementing all major actions included in Agenda 21, and makes the point of involving all social groups in the decision making process leading to sustainable development, through the required instances.

*United Nations Convention on the Law of the Sea (UNCLOS), 1997, ('Convención de las NU sobre el Derecho del Mar, CONVEMAR')*

UNCLOS was enacted in Chile by Decree 1.393 (Foreign Affairs) of 1997. It is an international agreement resulting from the third United Nations Conference on the Law of the Sea (UNCLOS III), between 1973 and 1982. UNCLOS defines the rights and responsibilities of nations in their use of the oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources. It was concluded in 1982, replacing four 1958 treaties. UNCLOS came into force in 1994, a year after the 60th state signed the treaty. To date, 156 countries and the European Union have joined in the Convention.

*Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 2004 ('Acuerdo para*

*promover el cumplimiento de las medidas internacionales de conservación y ordenación por los buques pesqueros que pescan en alta mar')*

Approved through Decree 78 of 2004 (Foreign Affairs), Chile accepted Resolution 15/93 of the 27<sup>th</sup>. Session of the FAO Conference of 24 November 1993. However, regulations to enact this agreement in Chile were only approved through Decree 360 of 2005. These regulations are applicable to all fishing vessels that catch on the high seas, requesting all countries to ensure that their fleets comply with international regulations on conservation, etc.

*Action Plan to Prevent, Discourage and Eliminate Illegal, Unregulated and Unreported Fishing, IUU, ('Plan de acción nacional para prevenir, desalentar y eliminar la pesca ilegal, no declarada y no reglamentada')*

By Decree 267 of 2005, Chile adheres to FAO proposals to prevent, discourage and eliminate illegal, unregulated and unreported fishing activities in the high seas and on its EEZ, on its triple condition of coastal nation, flag state and state port authority.

*Agreement Proposal for the Conservation of Live Marine Resources on the Pacific South East High Seas, 2001 ('Propuesta de Acuerdo marco para la conservación de los recursos vivos marinos en la alta mar del Pacífico Sudeste o Acuerdo de Galápagos')*

Under this agreement proposal – not signed at this stage - the Permanent Commission for the South Pacific and its four members, Chile, Peru, Equator and Colombia agree on how to preserve marine resources available on the high seas, beyond their EEZ's, from parallel 5°S to 60°S, and up to meridian 120°W.

As the CPPS has not been approved to date by the CPPS's members, Chile has opted for a parallel alternative, with similar aims. This parallel initiative, the formation of the SPRFMO, is being discussed with New Zealand and Australia.

*Agreement for the Conservation of Albatrosses and Petrels, ACAP, 2005 ('Acuerdo para la conservación de Albatros y Petreles')*

After Chile signed this agreement, it was discussed in Parliament in 2004 and enacted in 2005. It had already been adopted in Australia in 2001.



It aims at protecting these birds and their habitats against contamination, lack of feed, the use of inadequate fishing gear etc, prohibiting harming and transporting them, their eggs and nests.

*FAO's Code of Conduct for Responsible Fisheries, CCRF, ('Código de Conducta para la pesca Responsable de la FAO')*

The Code of Conduct for Responsible Fisheries was elaborated by the FAO Committee on Fisheries (COFI) and adopted by the FAO Conference in 1995.

The concept of responsible fisheries and the possibility of elaborating guidelines or a code of practice for responsible fisheries were first mooted at the 1991 Session of the FAO Committee on Fisheries (COFI) within the context of its discussions relating to large-scale pelagic driftnet fishing. This led to the holding of the International Conference on Responsible Fishing in Cancun, Mexico in May 1992. The Conference culminated in the adoption of the Declaration of Cancun, which, called upon FAO, in consultation with relevant international organizations, to draft an International Code of Conduct for Responsible Fishing.

The purpose of the Code is to encourage the rational and long-term sustainable utilization of fisheries. The Code takes a holistic view of the world's fisheries. In so doing, it prescribes principles and standards for the conservation and management of all fisheries, and addresses the capture, processing and trade in fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

The Code is a voluntary instrument, and it is the first international instrument of its type to have been concluded for the fisheries sector. As a voluntary instrument the Code does not require formal acceptance by governments. However, there is a moral obligation for governments and other stakeholders to act in a responsible manner and to address urgent management and related sectoral issues.

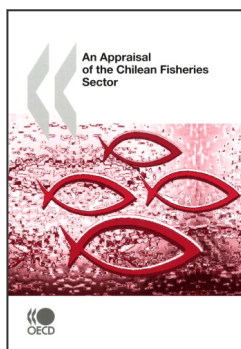
*Multilateral and bilateral Free Trade Agreements ('Tratados multilaterales y bilaterales de Libre Comercio')*

Being a major exporter of fish products, and having a fairly open economy, Chile reached Free Trade Agreements (FTAs) with different countries and the European Union. FTAs have been signed with the EU, the USA, Canada, Mexico, Japan, China, Korea, MERCOSUR (Argentina, Brazil, Uruguay, Paraguay), Australia, Central America, Caribbean

Countries, and others. This will certainly help expanding Chilean fish exports in the coming years and decades. Eventually, these FTA might as well help promoting further imports of adequate fish products by Chile, thus helping to ease the relative scarcity of cheaper white-fish species in the domestic market.

### *Notes*

1. Chile enacted this agreement in 1954, through Decree 432 of the Ministry of Foreign Affairs.
2. From CCAMLR's web page : [www.ccamlr.org/pu/e/gen-intro.htm](http://www.ccamlr.org/pu/e/gen-intro.htm)
3. CMS web page: [www.cms.int/about/intro.htm](http://www.cms.int/about/intro.htm)



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