

Contents

<i>Table of cases</i>	<i>page xi</i>
<i>Table of statutes, national legislation, and related documents</i>	<i>xiii</i>
<i>Table of treaties</i>	<i>xvi</i>
<b>Introduction</b>	<b>1</b>
<b>1 The evolving principles and concepts of international law in high seas fishing</b>	<b>3</b>
Freedom of fishing in the high seas in a historical setting	3
The evolving legal concepts relating to high seas fishing	8
The freedom of fishing in the high seas in customary international law	13
Fishing and conservation in the high seas under the 1958 Geneva conventions	18
The changing role of international law on high seas fisheries	21
<b>2 The influence of the Third United Nations Conference on the Law of the Sea in the new regime of high seas fisheries</b>	<b>24</b>
The emerging principles relating to conservation and management of living resources within the exclusive economic zone	26
The species approach and the linkage with high seas issues	31
Salmon fisheries and the prevailing interest of the state of origin	32
Marine mammals: furthering the restrictions to the freedom of exploitation	36
The Convention's limited approach to the straddling stocks and highly migratory species question	40

viii	CONTENTS	
	Conservation and management of the living resources of the high seas under the Convention	45
	Environmental achievements of the Convention	48
	New perspectives in the development of international law	50
3	<b>Developing the international law options for high seas fisheries conservation and management</b>	53
	The growing pressure on high seas fisheries	53
	The global reach of high seas fisheries overexploitation	55
	Implications of the state of high seas fisheries for conservation and management regimes	60
	The Convention in a static view: protecting the interests of distant-water fishing nations	62
	The Convention in an evolutionary interpretation: advancing the interests of coastal states	65
	Interpreting the Convention in a spirit of mutual accommodation	68
	The search for new criteria in the light of environmental concerns	76
4	<b>Trends in contemporary international law and national legislation and practice on high seas fisheries issues</b>	79
	Trends relating to the conservation and management of transboundary stocks	80
	The leading role of salmon fisheries arrangements	84
	Marine mammals and the increasing emphasis on conservation	86
	Straddling stocks and the development of the role of coastal states	89
	Highly migratory species and the harmonization of coastal states' rights with international cooperation	96
	Other aspects of contemporary international practice relevant to high seas fisheries	101
	Chile's presential sea approach: a restricted model of coastal state intervention	107
	Argentina's jurisdictional claim: advancing coastal states' interests	111
	Canada's high seas jurisdictional claims: new implications for international law	112
	Advancing international law: a conclusion on contemporary practice	117

	CONTENTS	ix
<b>5 The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks</b>		119
The preparatory work of the United Nations Conference on Environment and Development		119
The UNCED deliberations and the convening of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks		126
Organization of the conference and the issue of the form of its outcome		131
Interpretations and problems relating to the definitions of the 1995 Agreement		137
General international law provisions and final clauses		141
<b>6 Conservation and management of fisheries in the high seas in the context of the evolving principles of international environmental law</b>		145
The principle of sustainable development and the conservation of straddling fish stocks and highly migratory fish stocks		145
The principle of preventive action in the context of the general principles of conservation and management of high seas fisheries		153
The emergence of the precautionary principle and the question of its application to high seas fisheries management		156
Developing the precautionary approach in high seas fisheries		160
The principle of informed decision-making in the context of high seas fisheries		164
<b>7 Ecosystem management and the legal interactions between areas under national jurisdiction and the high seas</b>		171
The legal relationship between the 1995 Agreement and the Convention		172
Geographical ambit of application of the 1995 Agreement		175
The issue of compatibility of conservation and management measures in the high seas and in areas under national jurisdiction		183
Nature and extent of the duty to cooperate in establishing compatible measures		188
Ecosystem management as applied to enclosed and semi-enclosed seas and other areas of the high seas		194

X	CONTENTS	
8	<b>Perfecting international cooperation through organizations and arrangements for high seas fisheries conservation and management</b>	200
	Extent of the duty to undertake international cooperation	200
	Questions of participation in cooperation mechanisms and the right to fish in the high seas	206
	Establishing fisheries organizations and arrangements	215
	The principle of common but differentiated responsibility	222
9	<b>Compliance and enforcement in high seas fisheries</b>	227
	The contribution of the FAO Agreement on Compliance and the Code on Responsible Fisheries	228
	Strengthening the duties and rights of flag states under the 1995 Agreement	233
	Advancing international cooperation and nonflag-state enforcement in high seas fisheries	240
	Specific issues relating to boarding and inspection	245
	Specific issues relating to investigation and prosecution	252
	Port-state enforcement and the issue of access of fishing vessels to foreign ports	259
10	<b>Perfecting the regime of high seas fisheries through effective dispute settlement</b>	267
	General obligations on dispute settlement	267
	Early options for dispute settlement: regional procedures, arbitration, and application of the Convention	269
	Disputes of a technical nature	272
	Extending and adapting the application of dispute settlement procedures under the Convention	273
	Dispute settlement in the context of provisional measures	279
	Safeguarding a coastal state's sovereign rights and jurisdiction	282
	<b>Conclusion: Preserving the freedom of high seas fishing and ensuring conservation</b>	288
	<i>Bibliography</i>	294
	<i>Index</i>	330