

Actual Legal Aspects of Managing the Cod Fishery in the Northern Regions

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Abstract

In the practice of fishing in the Northern regions, cod is of the greatest interest, since it is a most valuable object that is in high demand, both in the domestic and international markets. Regulation of fishing is carried out on the basis of the rules of law of the Russian Federation and international treaties. The development of the regulatory framework for the settlement of the relationship between people and natural resources should be subject to environmental priorities. The federal legislation of the Russian Federation provides legal regulation of environmental activities. Fishing for aquatic biological resources is regulated by the Federal Law of December 20, 2004 № 166-ФЗ "On fisheries and the conservation of aquatic biological resources". Aquatic biological resources can be considered from the perspective of strategic food resources. Therefore, it is necessary to study in more detail the issues of legal regulation of their production, protection and rational use. At the same time, international aspects are of great importance. In this regard, it is necessary not only to develop international legal regulation of fishing, but also to monitor the implementation of accepted international agreements. On the example of regulation of the international fishing of cod, a mechanism of cooperation and interaction between Russia and Norway has been developed. It has been used for a long time and its experience should be used more widely.

Keywords: *cod, allowable catch, fishing, legislation, international treaties*

Introduction

The Russian Federation is one of the world's top five countries in terms of aquatic biological resources production. The state policy in the field of fisheries development up to 2020 was based on the "Concept of fisheries development in the Russian Federation for the period up to 2020" approved by the Government of the Russian Federation. It defines the main directions for the formation of a unified state policy for the development of the industry. The concept formulates goals, objectives, directions and ways to ensure the interests of Russia in the effective use of aquatic biological resources. Currently there is an ongoing work on the formation of a political program for the management of the development of the fisheries industry. The strategic goal of fisheries is to ensure the good condition of fish populations and their species diversity.

Fisheries in the Russian Federation is a complex sector of the economy. It includes a wide range of activities. It includes:

- prospecting the raw material base of the industry;
- organizing trade in fish products both in the country and abroad.

The main share of catches in Russia is accounted for by such cod species as: cod; haddock; pollock; blue whiting; coalfish. Russia is a leader in world catch: cod - 29%, salmon - 52%, herring - 4.2%. According to the necessity to solve the tasks of the strategy of the fishing industry development of the Russian Federation for the period till 2030, the corresponding project was worked out in Russia. This project "New Cod Industry" is designed to update the production assets in the segment of catching (catching) and processing of the main objects of the cod fishery [1, p.23].

It is aimed at:

- on changing the economic policy of the subject of the main market of sales of products from cod fish species;
- designated the transition from raw export-oriented production to the production of products with a deep degree of processing;
- taking into account fluctuations of the national currency rate - ruble to the main world currencies;

Takes into account the aging of the fishing fleet and economic limitations on its re-equipment with fishing and processing equipment;

- Increases the effectiveness of the development of aquatic biological resources;
- priority of preservation of the resource base and its restoration.

Thus, the state fisheries policy takes into account both the technical side of fisheries and the protection of fishery resources of the world ocean and seas under the jurisdiction of Russia. Russia fishes in the exclusive economic zone of the Russian Federation. State policy of Russia is also aimed at concluding intergovernmental agreements on the use of aquatic biological resources with many states in their exclusive economic zones, in the areas of international fisheries conventions.

Importance of the Northern fishery basin

The Northern fishery basin ranks second after the far eastern fishery basin in terms of the volume of marine bioresources harvested by Russian fishermen (Figure 1). The commercial objects are cod, haddock, pollack, capelin, herring, perch, halibut, flounder and others. The main commercial species in the Northern basin is cod. In 2014, the share of cod in catches from the Barents and Norwegian seas was 65.5%, with haddock 14% and capelin 12.6%. Cod and haddock are harvested all year round [2, p.5-6].

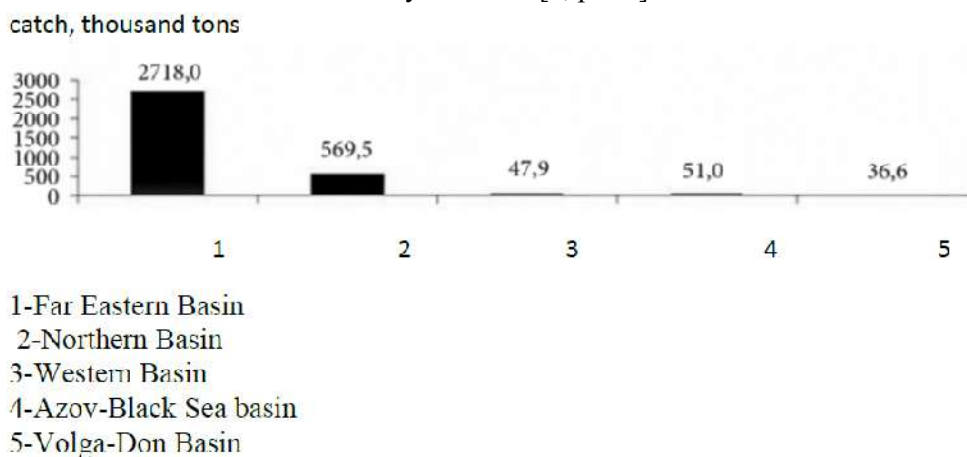


Figure 1. Total volume of catch of aquatic bioresources in 2014. (according to VNIRO data for 2015).

The most important commercial resources in the Barents and East Norwegian seas are cod and haddock. It is about 80% of the raw material base. [3, c. 150].

According to the results of 2018, Russian fishing organizations harvested more than 2.3 million tons of pollock, cod, haddock and saithe, which amounted to about 45% of the total production (catch) of the Russian Federation. At the first stage of implementation of the fishery complex strategy on the territory of the Russian Federation till

2025, it is planned to put into operation 43 fishing vessels and 26 coastal enterprises for the production of fish and other products from aquatic biological resources. The main center for the implementation of the strategy is the far eastern region [1, p.25-26].

The economic zone of Russia, in particular its shallow coastal part, is located in the 26th sub-region of the Baltic sea. This is the area of fattening of young fish: sprat; cod; herring; river flounder; turbot flounder and other fish species. This is the area of fattening of predators: cod, turbot, salmon, kumzha, pike-perch, eel and others. Migration routes of Baltic herring, cod, flounder, salmon, European eel pass through the area [4, p. 61].

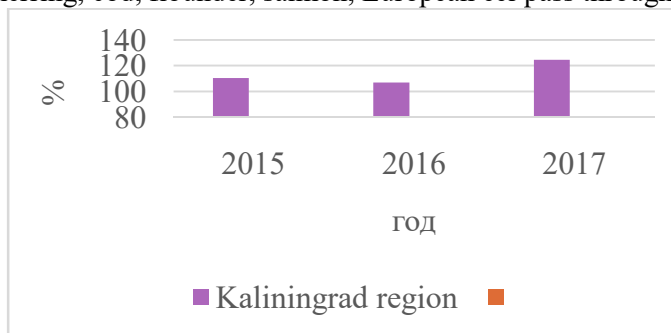


Fig. 2. Indicator of the actual dynamics of the volume of production (catch) of aquatic biological resources (in relation to the indicator of the base period) (%) (according to the Passport of the State program of the Russian Federation "Development of fishery complex", approved by the Government of the Russian Federation on April 15, 2014 № 314 in the edition of the Government Decree of the Russian Federation on March 27, 2019 № 324) [5].

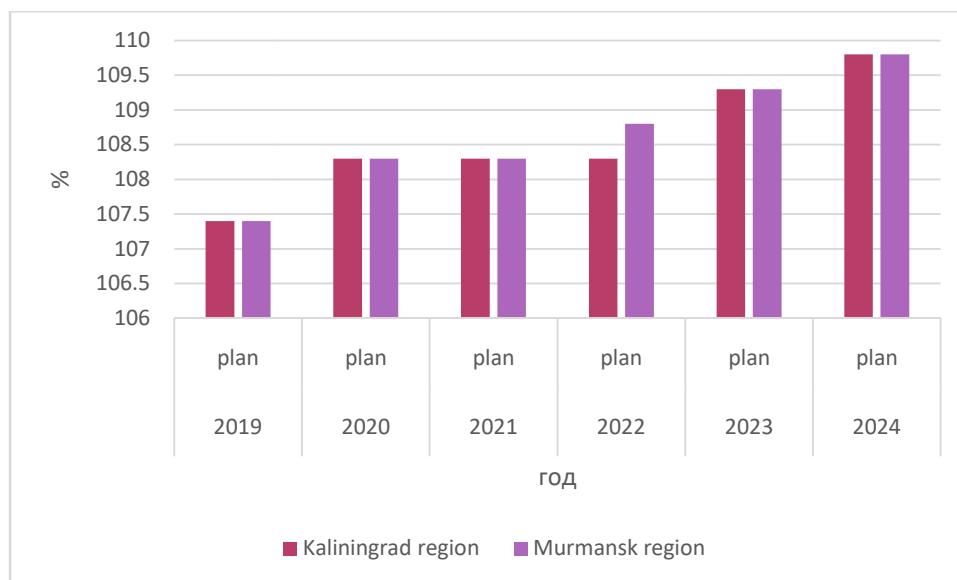


Fig. 3. Indicator of the planned dynamics of the volume of production (catch) of aquatic biological resources (in relation to the indicator of the base period)" (%) (according to the Passport of the State program of the Russian Federation "Development of fishery complex", approved by the Decree of the Government of the Russian Federation from April 15, 2014 № 314 in edition of the Decree of the Government of the Russian Federation from March 27, 2019 № 324) [5].

Fishery importance of cod

The cod fishery is currently promising in the waters near Murmansk and the Far East. This is a geopolitically important region for both Russia and the countries of the northern seas.

Norway's historical interest in cod fishing is related to the location of its spawning grounds. The Barents Sea-Norwegian cod species is located near the Lofotenislands in the southeast of the Norwegian sea. Catch of 180 thousand tons of cod was recorded off the northeastern coast of North America - the region of Newfoundland, nova Scotia and new England. In Europe, the largest amount of harvested cod up to 52 million pieces - in Norway near the Lofotenislands [6].

Fishermen from Russia, Norway, the Faroe islands, France, Germany, Poland, Denmark, Estonia, Greenland, Iceland, Ireland, the Netherlands, Portugal, Spain, and the United Kingdom are engaged in cod fishery in the Barents Sea and adjacent waters (ICES regions I, IIa and IIb)1 (Figure 2) [7].

Russian fishing enterprises carry out their activities in the exclusive economic zone of Russia, economic zones of foreign states, areas of international agreements (conventions). Fishing in the northern seas is regulated by the norms of international law [8].

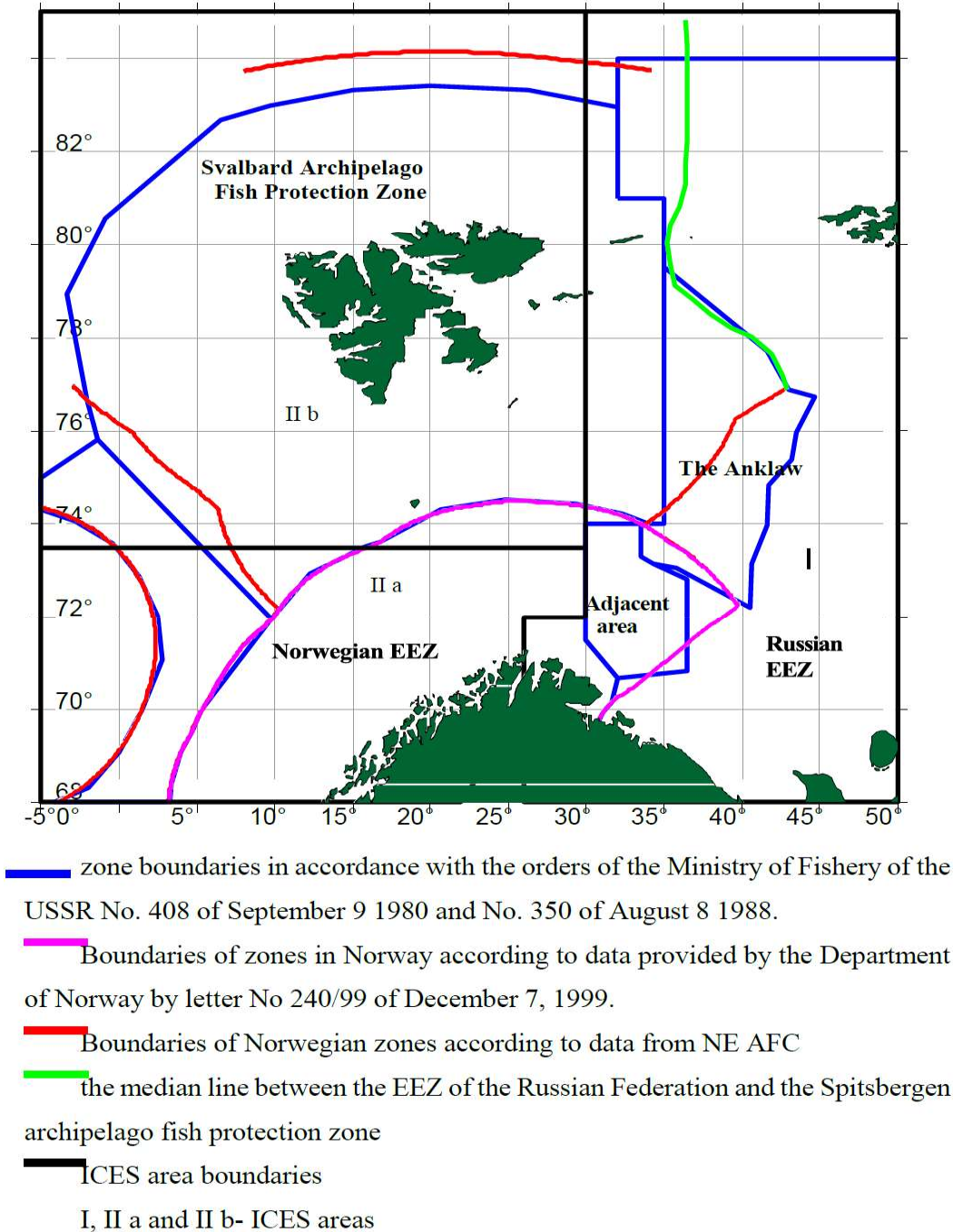


Figure 4. Boundaries of fishery areas (according to ICES) [7].

Protection of biological resources

The Federal Law of the Russian Federation №7"On Environmental Protection" in paragraph 3 of Article 2 draws attention to the fact that the Federal Law operates on the continental shelf and in the exclusive economic zone of the Russian Federation in accordance with international law and federal laws. It is aimed at ensuring the

preservation of the marine environment. At the same time paragraph 5 emphasizes that relations in the field of protection and rational use of natural resources, their conservation and restoration are regulated by international treaties of the Russian Federation, as well as by water legislation, legislation on fauna and other legislative acts in the field of environmental protection and nature management. Thus, legal regulation of protection of aquatic biological resources is established which must fully apply to commercial species of hydrobionts. This law stipulates the state policy of regulating the protection of aquatic biological resources.

Article 6. states that the powers of state authorities of the subjects of the Russian Federation in the sphere of relations related to environmental protection are politically involved in determining the main directions of environmental protection in the territory of the subject of the Russian Federation. Protection of aquatic biological resources of a subject must be provided by subordinate federal bodies whose responsibilities include this aspect of activity. At the same time, in the field of environmental protection policy, the law allows the adoption of laws and other normative legal acts at the level of a subject that do not contradict the federal legislation. The subject has the right to control the implementation of legislation. Aquatic biological resources subject to active fishing must be protected in accordance with the law. Overfishing and the reduction to critical levels of commercial populations should not be allowed. This is contrary to federal law.

The right to adopt and implement regional conservation programs belongs to the subject, so much attention should be paid to the state of the fishing stock and risk assessment. This is an important aspect of political activity - to consider possible options for financing measures to restore the number of valuable species of fisheries. As part of the practical activities in the fishing area, regional state ecological supervision is carried out in accordance with Article 2.1. according to the Federal Law "On Fishing and the conservation of aquatic biological resources" (from 20.12.2004 № 166-FZ). Federal state control (supervision) in the field of fishery and conservation of aquatic bioresources in terms of marine bioresources is carried out by the federal executive authority in the field of security in the manner prescribed by this Federal Law, as well as other federal laws and other regulatory legal acts of the Russian Federation (part 2.1 is introduced by Federal Law № 120-FZ from 02.05.2015). Thus, in Russia the right to implement measures to protect aquatic biological resources is enshrined at the legislative level. And these measures can be implemented both by regulation by the Federal Law and by normative legal acts of the subjects of the Russian Federation, charters of municipalities and normative legal acts of local self-government bodies (Article 10 №. 7-FZ) [9].

Russian-Norwegian Mixed Commission

The relations that arise during the use of natural resources at the international level in the Russian Federation are also regulated by legislation and international treaties. An example of such cooperation is the Joint Russian-Norwegian Fisheries Commission (JRNFC). Fish are caught in accordance with the recommendations made by this commission [10].

During the work of the annual commissions, the parties exchange statistical data. Based on catch monitoring data for 2018 and the past period of 2019, they established the total allowable catch in the Barents sea.

For 2020, based on the results of the session, the parties determined an estimate of the allowable catch (TAC):

- cod - 738 thousand tons, which is 13 thousand tons more than in 2019, including the national quota of the Russian Federation-315.28 thousand tons;
- haddock - 215 thousand tons, which is 43 thousand tons more than in 2019, the national quota - 92.16 thousand tons;
- Bluefin halibut - 27 thousand tons (at the level of 2019), national quota - 11.48 thousand tons;
- sea bass (*S. mentella*) - 55.86 thousand tons, which is 2.1 thousand tons more than in 2019, national quota-12.1 thousand tons. [11].

It is planned to prepare and submit to the Federal Agency for Fishery the materials justifying the total allowable and recommended catches of aquatic biological resources for 2022. Later on their basis for the research organizations subordinated to Rosrybolovstvo it is planned to correct the total allowable catches (TAC) for the fishing season of 2020-2021. Thus, the TAC policy is scientifically substantiated.

As a result of the conducted expert work, FGBNU VNIRO (Polar branch) - a legal entity, received the right to use aquatic biological resources for cod fishing for research and control purposes in 2020 in the following water

areas: the White Sea - 5 tons; the Kara Sea - 2 tons. At the same time, attention is paid to the need to control the industrial and coastal fisheries [12].

The result of the 48th session of the joint Russian-Norwegian commission on fisheries was the decision on the possibility of transferring up to 10% of the Russian national quotas for cod and haddock from 2018 to 2019. It was also suggested to hold a meeting in 2019 to discuss the research program in the framework of the Agreement on the prevention of unregulated fishing in the open sea area of the central part of the Arctic Ocean [13].

Fishing in the Northeast Atlantic Ocean (NEA) takes place in the exclusive economic zones of the coastal states and in the regulatory areas of the Northeast Atlantic Fisheries Commission (NEAFC). Russia, as well as Norway, Iceland, the European Union and Denmark, the Faroe Islands and Greenland, are parties to the Convention on Future Multilateral Cooperation on Fisheries in the North-East Atlantic. They have the right to fish in the NEAFC regulatory areas. Fishing in the areas of national jurisdiction of Russia and Norway, as well as in the area of the Svalbard Archipelago, is politically justified in accordance with the national legislation of these coastal states and international treaties in the field of fisheries [14].

The Russian-Norwegian Commission proposes that within its jurisdiction, if necessary for the regulated fishing area, it should develop proposals for amendments to the fisheries rules for the Northern fishery basin. The Commission considers it politically feasible to regulate the technical possibilities of hydrobiont fishing [15].

Controlling Fishing

Illegal fishing causes significant harm to aquatic life populations. A stock management strategy has been adopted at the state level to create the conditions for high long-term catches while striving to achieve annual stability of the TAC. In this regard, there is a need to look more closely at illegal or poached fishing options and develop measures to discourage it.

In keeping with the strategy of legally regulated fisheries, the Harvest Control Rule (HCR) special fishery regulation (PRP) was adopted in 2004. In order to achieve inter-annual stability of TAC, according to the strategy, it is accepted that the limit of change of TAC for each subsequent year can be more than $\pm 10\%$ of the TAC level of the current year. If the spawning stock falls below the established values, the 10% limit is cancelled [16, p. 24].

Fishery control plays an important role, it is carried out with the help of technical means, for example sorting systems in cod trawls. Oversight bodies must apply the instructions developed by the Standing Committee on Management and Control back in 1999 at the 28th session of the mixed Russian-Norwegian Fisheries Commission, which took place in Murmansk (15-19 November 1999). In the Protocol, adopted at the session of the mixed Russian-Norwegian Fisheries Commission, it was noted that the Parties exchanged statistical data on the results of fishing in the Barents and Norwegian seas in 1998 and for the elapsed period of 1999 according to unified reporting forms. At the same time, Parties have stated the accuracy and correspondence of the submitted data. At the same time, it was noted that there is uncertainty in the stock assessment of Arcto-Norwegian cod. Therefore, more research is needed in the entire distribution area. This work should be carried out in order to obtain more accurate results and long-term strategies for the management of the total stock in the Barents sea should be agreed [17].

In Russian Law № 166-FZ Article 2 establishes the basic principles of the application of the legislation in the fishery and conservation of aquatic bioresources. Sorting system is mandatory for cod trawl fishery in limited areas of the Barents sea. The use of sorting systems shall comply with the technical requirements adopted by the authorities of both sides on the basis of a minimum distance of 55 mm between bars. The use of fine mesh nets and fabrics for making guide parts of the sorting systems is allowed. At the international level an agreement has been signed to prohibit the use of multihull trawls for cod fishing. When catching fish, a fishing log is kept and it is allowed to make adjustments to the catch for the past day before the end of the day [18].

Conclusion

In the Russian Federation, legislation on fisheries and the conservation of aquatic biological resources is based on principles that can be seen as the basic measures of fisheries regulation. Compliance with them allows to reduce negative trends from fishing efforts and contributes to the natural reproduction of aquatic biological resources.

Basic principles of regulation of relations in the sphere of fishery and protection of aquatic biological resources:

1. Taking into account the importance and resource value of aquatic bioresources as the basis of human life and activity, it is necessary to develop a mechanism for regulating relations in the sphere of fisheries and the conservation of aquatic bioresources. Aquatic biological resources are natural objects, which should be protected as an integral part of nature. They are used by people for consumption. They must be subject to the right of ownership.

2. The priority of conservation of aquatic bioresources and their rational use. Before using aquatic bioresources as an object of property rights and other rights, it is necessary to take into account that possession, use and disposal of aquatic bioresources are carried out freely by owners. The owner must not damage the environment and the condition of aquatic bioresources.

3. The preservation of especially valuable and valuable species of aquatic bioresources according to which fishing is restricted or prohibited according to the procedure established by federal laws.

4. It is necessary to establish a differentiated legal regime for fishery of aquatic bioresources, according to which in determining the legal regime of these aquatic bioresources their biological characteristics, economic importance, availability for use, area of extraction (catch) and other factors should be taken into account.

5. It is necessary to provide the right of citizens, public associations, associations of legal entities (associations and unions) to participate in solving the issues related to fisheries and the protection of aquatic bioresources.

In accordance with this law, citizens, public associations, associations of legal entities, as well as associations and unions have the right to participate in the preparation of decisions, the implementation of which may affect the condition of aquatic bioresources. At the same time, state authorities, local self-government bodies, subjects of economic and other activities must provide the possibility of such participation in the manner and forms established by law.

6. In accordance with the adopted legislation, access to aquatic bioresources must be provided to the indigenous peoples of the North, Siberia and the Far East of the Russian Federation in order to ensure the livelihood of the population and to meet their needs [18].

For effective development of the fishery complex of the Russian Federation till 2030 the complex project "New Cod Industry" has been developed. It has all the necessary political prerequisites for effective implementation, both at the level of normative-legal support of fishery activity, and at the level of financing [19; 20]. The rational use of the cod resource requires not only accounting and monitoring of the industrial herd for the organization of rational and effective fishing, but also detailed elaboration of the arising problems, including in the field of the normative-legal substantiation of fishing international activity. International bilateral agreements between Russia and Norway have historical continuity and can become a political universal mechanism of international cooperation in economic regions of neighboring states on the regions of aquatic biological resources.

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