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**RULES AND POLICIES APPROACHES TO COMBATING  
UNREPORTED, UNREGULATED, AND ILLEGAL FISHING IN  
SOUTH ASIA**

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**ABSTRACT**

The worldwide community is becoming increasingly concerned about the overuse of fishery resources. One of the primary foods that people eat for animal protein is fish. Undoubtedly, the increasing global population has resulted in a greater use of fishery resources. In addition, technological advancements have made fishing easier, allowing the fishing industry to more efficiently supply the world's population's protein needs. Unreported, unregulated, and illegal (IUU) fishing is carried out by fishing vessels that disobey the regulations governing fisheries managed by Regional Fisheries Management Organisations (RFMO) in high seas, coastal waters, or other areas. This kind of activity is almost always prearranged, with violators changing the identification and call sign of the vessel, reflagging to non-RFMO States, and exchanging intelligence with other violators. Owners and operators of the constraints imposed by the United Nations Convention on the Law of the Sea (LOSC) have proven advantageous to IUU fishing vessels.

The evolution of current fisheries in the sea have historically been influenced through developmental and historical causes. Political and economic issues are among the many causes of this. Legislative remedies to the IUU fishing problem can be identified by looking at the reasons that have contributed to this trend. This chapter's goals are to look at the idea of clandestine fishing and to talk about and assess problems associated with it across Southeast Asia. This section addresses the several forms of illicit fishing (IUU) that take place in Southeast Asia, the strategies used to prohibit it, the legal frameworks at the regional and global levels that try to prevent it, and the gaps in the law that exist within these frameworks. Regional cooperation over IUU fishing is also covered in this chapter.

**Keywords: Vessels, LOSC, fishing, EEZ, IUU, RFMO, Ocean**

**INTRODUCTION**

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Any illegal fishing practices, such as "fishing without a permit, violating fishing seasons, capturing restricted species, utilising illicit fishing gear, surpassing the permitted quota, and not disclosing the quantity of fish captured, or reporting it too little. A number of important fish supplies have collapsed globally, and the Food and Agricultural Organisation of the UN (FAO) has declared that fishing in the IUU, the primary cause of this. The FAO has confirmed once more that this act is to blame for the degradation of fisheries and the threat it poses to the recovery of depleted fish populations.

Three categories have been established for IUU fishing by the IPA-IUU, or International Plan of Action:

**1. What constitutes illegal fishing includes the following:**

- a. fishing by foreign or domestic vessels operating without a licence or in violation of state laws and regulations in state-administered waters;
- b. fishing by vessels operating under the flag of a state that is a party to a relevant regional fisheries management organisation but operating against the conservation and management policies that the organisation has adopted and that the state is bound by; or
- c. against national laws or international obligations, including those submitted to a relevant

**2. The following fishing activities are considered unreported**

- a. those that have not been carried out under the purview of a pertinent regional fisheries management organisation and have not been reported, or have been reported erroneously, in contravention of the reporting guidelines established by that organisation; or
- b. those that have been reported, or have been misreported, to the appropriate national authority in contravention of national laws and regulations.

**3. Unrestricted fishing pertains to fishing endeavours**

- a. the organization's or a fishing entity's conservation and management policies in a manner that is incompatible with or contravenes those policies; or
- b. where fishing operations are conducted in a manner that conflicts with state obligations under international law to conserve living marine resources, or for fish stocks, about which there are no relevant conservation or management measures; and
- c. It may be possible for some unregulated fishing operations to take place in a manner that conforms with current international law and does not need the adoption of the International Plan of Action's suggested remedies.

The potential for IUU fishing to undermine and endanger global food security makes it a threat to maritime security. Since most of the acts go unreported or are considered unlawful fishing, it is challenging to pinpoint the precise number of IUU fishing occurrences that occur worldwide. The FAO reports that "in the past 20 years, especially in high seas fisheries, IUU fishing has escalated." According to FAO estimates, illicit fishing takes place every year and results among the 11–26 million fish tonnes that are lost, worth between \$10–23 billion. It follows that the risk that IUU fishing poses to the long-term sustainability of global fisheries management is not unexpected. Nineteen Additionally, since IUU fishing crosses state lines, those who engage in it can evade state law enforcement. A number of laws that apply on a regional and global scale are violated by the practice of IUU fishing. Additionally, this behaviour jeopardises the fishery management and protection. However, if the necessary laws are not in place, unregulated fishing might be acceptable in specific situations.

Fishing is permitted in all states' territorial seas, but they also have to abide by the laws that are now in place. When a non-party State makes an unregulated catch unlawful fishing in an RFMO conservation area is prohibited, and doing so goes against the established conservation measures. When it comes to unreported fishing, it's against the law for a State to fish in places where reporting to the conservators is required. Since that was found that unlawful fishing operations are frequently linked to include international organised crime including piracy, human smuggling, and the smuggling of illicit weaponry, IUU fishing has become a global security threat. An important illustration of this overlap is the 2008 Mumbai terrorist attack. Several transnational criminal actors were involved in the incident, including pirates, illegal fishermen, terrorists, and people traffickers.

Illegal maritime fishing is not a recent problem. In fact, RFMOs have undertaken a number of conservation and management initiatives as a result of the phenomena. States have been debating the matter for a while in an effort to come up with a shared understanding of the challenge and implement practical solutions to stop IUU fishing operations. A product of this kind is the IPOA IUU, developed by the FAO. In order to address the issue, several specific actions have been taken, such as the FAO's maintenance of the number of legal fishing operations and the creation of an international treaty that, in theory, outlines the steps port States should take to keep IUU fish out of the seafood market.

Similarly, RFMOs have confirmed a number of rules that its members must adhere to be able to stop IUU fishing. These precautions include the registration of fishing vessels and the installation of MSC (monitoring, control, and surveillance) systems. Moreover, administrative

and Regulatory actions have been implemented to halt IUU seafood from reaching the market for consumers. Offenders can only profit from their actions, like with other commodities, if IUU fish can be sold for a profit. To ensure that they can be easily identified, every fishing vessel operating on the high seas should ideally register and have an identity number. It is true that registering a vessel helps to identify its beneficial owner. Additionally, it is crucial that all States sign international agreements like the UN Fish Stocks Agreement (UNFSA) and the Land Use and Sea Charter (LOSC). As per the Global Ocean Commission, states ought to fulfil their responsibilities at the regional level (e.g., within RFMOs) in addition to adhering to these international mechanisms.

States are expected to keep an eye on the fishing operations carried out by their nationals and ships flying their flags in this regard. Moreover, RFMOs ought to assist in coordinating the necessary actions that both their members and other RFMOs take concerning illicit, high-water activities (IUU) fishing and other related matters. RFMOs should keep an eye on the precise locations of vessels and their operations while at sea. If needed, they should also share this information alongside more parties involved, like the management of fisheries and law enforcement organisations.

Port States should work together and communicate with RFMOs at the national level to monitor fishing boats that arrive in their harbours. Thus, port states would be given the authority to refuse entrance to any vessel engaged in illicit maritime operations said to be transporting IUU fish. Retailers can contribute by declining to buy seafood that appears to have been illegally caught, helping to eliminate the issue at its financial source. However, there are a few issues that need to be resolved in order to reach the ideal position that the Global Ocean Commission is advocating. These gaps give criminals the chance to carry out their operations and penetrate new marketplaces. When it comes to high seas fishing, IUU a very profitable industry. Furthermore, because the crime is international in nature, regional and multilateral collaboration is required to capture the criminals, many of whom use gaps in the law enforcement system to carry out their illicit activities. Consequently, enforcement unless retailers and the wholesale seafood market accept preventive measures, high seas regulations are unlikely to be successful. In summary, the only way States must take action against IUU fishing in order to collaborate on a global and regional scale by putting agreed-upon policies into action and providing the necessary funding to make sure they are carried out.

#### **DIFFICULTIES IN STOPPING ILLEGAL FISHING**

Because of flaws in the current system, which is overseen by fisheries authorities, IUU fishing persists. Among these flaws are irresponsible flag states, insufficient port state regulations, insufficient RFMO control, individual States, and commercial markets, in addition to a deficiency in capability and law enforcement.

#### **ABSENCE OF ANSWERS FROM FLAG STATES**

Every State has the freedom to fish on the open ocean, according to the LOSC. States must, however, take accountability for fishing boats carrying their flag. Furthermore, States must be informed about the current international and regional laws controlling fishing over the vast ocean. States that are RFMO members are especially obligated to follow the management and conservation strategies that the organisation has decided upon. In fact, even non-RFMO States should be aware of these precautions and abstain from actions that could jeopardise the conservation and management plans of their respective RFMOs.

As stated by the Global Ocean Commission, these States ought to be made aware of their responsibilities to cooperate even though they are exempt from the requirements outlined in the treaties signed within the RFMO framework the United Nations Fish Stocks Agreement and the LOSC. The IUU fishing problem will be lessened if all States take their obligations to comply to the aforementioned obligations seriously. Nonetheless, the information available indicates that a number of Flag states cannot or will not carry out their responsibilities in this regard. In fact, several States lack the competence to manage and keep an eye on their ships. States that provide quick and inexpensive fishing vessel registration are also available. As a result, some vessels register under several flag states in a little period of time. However, what's more troubling is the registration's lack of openness procedure, a flaw that permits the advantageous yacht owners to remain anonymous by using nominees. Because of this, IUU fishing can be profitable, endangering the viability of fisheries across the globe.

#### **INADEQUATE PORT STATE PROTOCOLS**

When it comes in opposition to IUU fishing, port states are crucial. In fact, States and RFMOs agree that port state actions are critical to stopping IUU fishing, particularly when it comes to fish dumping in ports. Because IUU fishermen must invest a great deal of time and money at ports with lax regulations, these steps are meant to make it harder for them to operate. However, given that port state control is less expensive to establish than maritime inspections, these procedures have shown to be incredibly cost-effective for States.

Nonetheless, port State control must be implemented at every port that already exists in order to be effective. In the event that this doesn't happen, there might be "ports of convenience,"

where IUU fishermen can unload their catch without worrying about facing consequences. In order to enforce this kind of regulation, port states must have internal laws that forbid it in addition to legal frameworks that allow them to cooperate with market states, other port states, and flag states. True enough, states with weak enforcement capacities would gain from unified port state management on a global and regional scale. When IUU fish is moved from one port in a certain area to another, other States that have comparable control programmes may be able to help.

### **VESSELS ON THE BLACK LIST**

Every RFMO has developed a personal collection of strategies to deal with the issue of IUU fishing. The blacklisting of vessels that are both confirmed and reasonably suspected of having participated in IUU fishing is one such approach. In order to make these vessels clearly identifiable, their names might be made public and extensively disseminated. This policy aims to stop identified vessels from unloading illegally imported seafood at ports. There are currently nine RFMOs that have formally blacklisted vessels, including NAFO, the Northwest Atlantic Fisheries Organisation, and the North East Atlantic Fisheries Commission and the Western and Central Pacific Fisheries Commission (WCPFC). To date, more than 70 vessels have been placed on a blacklist. This figure might seem low given the large number of RFMOs. Indeed, IUU fishing is being carried out by a sizable number of unreported vessels. Many factors contribute to the unreported status of these vessels, such as the lack of an IMO numbering scheme, States' inability to update vessel information, and others. Moreover, the issue is exacerbated by the non-global sharing of individual blacklists.

### **MARKETS**

Retailers have a unique opportunity to stop IUU fish from getting to the consumer market. It would be easier to stop fish from the IUU getting into the market for consumers if stores could only take seafood that has been legally collected (and in situations where the provenance of the catch has been reported). Moreover, the implementation of such a plan would provide customers with the assurance that the seafood they buy has been obtained legally, even though it is improbable that they are aware of the supplier and retailer's transactions.

The fish industry is worth billions of dollars. Consequently, seafood sellers may have a major influence on lowering the quantity of unlawful catch if they were to get involved in the IUU fishing issue and provide their support. In fact, this action might contribute to the advancement and upkeep of fishery product traceability. The traceability of all fish intended for the consumer market is necessary to ascertain its origin. Educating governments, retailers, and consumers



about marine fishing methods and providing trustworthy information regarding the provenance of seafood that is sold locally would also be advantageous.

### **INSUFFICIENT STATES ADHERENCE TO THE ACCORDS**

One of the most important policies Against IUU fishing, there has been recognised to be the PSMA. Nonetheless, a number of poor nations, particularly those in Africa, have claimed that they are unable to fulfil the agreement's obligations because they lack the necessary competence in this area. States do in fact differ in a number of ways, from the availability of accessible technology to human resources. Nonetheless, Article 21 of the PSMA has foreseen this issue and, if put into practice appropriately, should aid in the agreement's efficient execution after it comes into effect. For example, African states have joined the New Partnership for Africa's Development (NEPAD) Stop Illegal Fishing Working Group. This group's primary goal is to comply with PSMA regulations by enumerating the state capacity requirements and the necessary toolkits.

The Global Ocean Commission claims that corruption is still the primary obstacle to its implementation. Accountability and openness are therefore necessary components to guarantee the effectiveness of the actions made to stop IUU fishing. Additionally, there is increasing backing for classifying IUU fishing is one kind of international organised crime. In order to address the issue, the Norwegian government took the lead on this endeavour and asked the International Criminal Police Organisation (INTERPOL) to get involved. Since IUU fishing is categorised as a problem with fisheries management, INTERPOL's involvement offers an alternate approach to resolving the issue. In reaction, INTERPOL introduced the Fisheries Crime Programme (Project SCALE), a specific programme designed to address IUU fishing. INTERPOL investigated a vessel called "Snake" that was on a blacklist and issued a "Purple Notice" in September 2013. An international alert known as a "Purple Notice" is used to request details and organise action. Snake repeatedly altered its name, national registration ("flag"), and other distinguishing features to evade being discovered as engaging in illegal fishing. These activities demonstrated the proprietors' and operators' intent to evade "blacklisting" and the related penalties. The snake is therefore thought to have broken a number of national and international laws.

### **INADEQUATE ENFORCEMENT PROCEDURES**

Conducting observation, tracking, and law enforcement operations on the vast ocean is a challenging endeavour, especially when one takes into account the size of the ocean and the great distances that vessels must go from their shores to do the duty. Over 50% of the States

that self-report said in an FAO survey from the mid-2000s that "their ability to control activities of their flagged vessels on the high seas was ineffective or inefficient." In fact, these States' enforcement efforts tended to concentrate on regions near their ports, placing them under their national jurisdiction. Developed nations, who have the means to patrol not just the regions under their national jurisdiction but also the high seas, engaged in this activity in addition to developing nations. It must be put into practice enforcement and monitoring strategies in order to reduce or eradicate these related international crimes. Consequently, it's critical to follow large fishing vessels using Vessel monitoring systems (VMS) and automated identification systems (AIS). These days, using VMS is required in a number of nations. VMS is another tool that RFMOs use to monitor and preserve their authorised regions. Vessel tracking systems are essential for identifying noncompliant vessels that might be involved in illicit fishing, even though they do not completely eradicate the practice.

There are additional ways to monitor vessel activity. In fact, surveillance has been done using satellite monitoring systems such remotely piloted aerial and maritime vehicles, radar satellites, optical imaging satellites, and sophisticated ground-based radar. Nevertheless, there are issues with this strategy from the start. Few nations have been able to deploy satellite surveillance systems because of their high cost of acquisition; as a result, the technology has not yet been incorporated into a coordinated programme to enforce fishing laws.

#### **SOUTHEAST ASIA'S IUU FISHING: ITS NATURE**

Over half of the world's fish production has come from the Asia Pacific region since 2006. The top five producing fish nations Vietnam is in Southeast Asia, Thailand, Myanmar, the Philippines, and Indonesia. The combined fish production of these nations makes up 31% of the fish produced throughout the Asia-Pacific region. With an annual production of eleven percent of the total production in the Asia-Pacific region, or about 5.4 million tonnes of fish products, Indonesia is the leading producer in Southeast Asia.

Southeast Asian countries have undoubtedly profited from fish exports, with several states in the area earning substantial sums of foreign exchange. Consequently, it is evident that many people in Southeast Asia rely heavily on fishing for their subsistence and food security. But overfishing and the overuse of aquatic resources are also consequences of the growing demand on fisheries.

Many people in Southeast Asia rely heavily on fishing for their subsistence and food security. Indeed, the fishing industry employs almost 10 million people in the ASEAN region. Additionally, about 10 million individuals are working in the fishing industry. Southeast Asian

fisheries provide indirect support to the families of these labourers. Williams therefore claims that about 100 million people in the area depend on the fishing industry.

In Southeast Asia, Fishing in the United Nations is regarded as a primary danger to marine security. Since fish is the main source of protein for food in the region, any action that could jeopardise the region's ability to sustainably produce fishery resources or otherwise affect their supply is concerning. Additionally, several Southeast Asian States' economy heavily relies on the trading of fisheries. States comprise therefore under duress to accept the required actions to preserve and safeguard their individual living things. There are reports linking illegal fishing in Southeast Asia to other marine crimes including piracy. It is challenging for Southeast Asian states in order to stop IUU fishing as a concern for a number of reasons. First off, the government organisations entrusted with finding a solution frequently lack the necessary funding. Second, disputed maritime border disputes, particularly in the Sea of South China, continue to be a contentious topic among plaintiff State and are a frequent cause of tension in the area and protectionist policies over fishing grounds.

### **CONCLUSION**

Among the biggest challenges to marine Southeast Asia's security is illegal fishing. The financial benefits that IUU fishermen derive from their operations serve as their main driving force. IUU fishing takes place in a variety of marine zones, but it's most common in EEZs and high marine regions under RFMO authority. It is evident that illegal fishermen by definition do not go by the rules established for licenced fishing, and as a result, they frequently overfish fishery resources without considering conservation or management strategies. Numerous governments have attempted to apply the current frameworks on a global and regional scale. However, when looking at the bigger picture, effective implementation is still absent, which means that the illegal behaviour continues to occur. States that have not yet ratified international agreements pertaining to fishing in the IUU exist. Regarding Southeast Asia, a comprehensive regional effort is still lacking despite the availability of multiple legislative frameworks. Moreover, a number of States lack thorough national frameworks regarding IUU fishing. Consequently, it is possible to draw the conclusion that IUU fishing is not adequately addressed by the current legislative framework at the regional and international levels. Since IUU fishing is a global problem, regional solutions are required. A single state's unilateral actions cannot resolve the issue. Thus, in order to solve the issue, cooperation amongst the regional States is required in its entirety.

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