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## **The Urgency of Handling Illegal Unreported and Unregulated Fishing in the Indonesian Border Region Perspective: Marine Security in the Makassar**

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### **Abstract**

ASEAN Outlook on Indo-Pacific (AOIP) plays a role in maintaining peace, security, stability and prosperity in the Asia Pacific and Indian Ocean (Indo-Pacific) region. However, due to common and competing interests, there are still conflicts in the region's implementation. Maritime security cooperation, which includes addressing illegal, unreported, and unregulated (IUU) fishing, is one of the most important issues in the ASEAN region. The research intends to examine law enforcement against IUU violations in the ASEAN region, as well as the consequences of IUU violations by ASEAN countries on waters in the Makassar Strait. This is a qualitative study that employs a normative-empirical approach. The first problem is analyzed using the normative aspect, which is based on international and national law on ASEAN agreements on IUU, law enforcement, and other issues. While the empirical aspect is used to analyze the second problem through in-depth interviews about Makassar Strait water supervision and law enforcement. Based on the research findings, IUU law enforcement in the ASEAN Region must be carried out firmly to parties that threaten security and stability in the ASEAN Region, as outlined in each agreement participant's national law. Meanwhile, the legal consequences of IUU violations in the ASEAN Region have an impact on the security and stability of the waters of the Makassar Strait.

**Keywords:** illegal, Unreported and unregulated; Indonesian jurisdiction; maritime security; Makassar strait

### **A. INTRODUCTION**

The ASEAN Outlook on Indo-Pacific (AOIP) was established to foster cooperation between ASEAN member countries and Indo-Pacific partners, with the aim of positioning ASEAN as the center of growth. AOIP aims to promote collaboration among ASEAN member countries, rather than competition, to contribute to the maintenance of peace, security, stability, and prosperity in the ASEAN and Indo-Pacific region.<sup>5</sup> In order to address the current geopolitical landscape, it is essential that ASEAN retains its pivotal role

while upholding the values of openness, inclusivity, and transparency, in line with the fervent aspirations of the Indonesian government. Given the ongoing rivalry between the United States and China, and other stakeholders' vested interests in the Indo-Pacific region, this becomes even more imperative.<sup>6</sup> Indonesia is deeply engaged in a range of peace initiatives throughout Southeast Asia and plays a vital role in addressing critical challenges facing the ASEAN region. Notably, Indonesia is committed to promoting maritime security collaboration to

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<sup>5</sup> Summit, East Asia. 2023. "Indonesian Way Creating a Platform for an Inclusive Indo-Pacific Region, Indonesia Will Hold the ASEAN-Indo-Pacific Forum (AIPF): Implementation of the ASEAN Outlook on the Source: Ministry of Foreign Affairs."

<sup>6</sup> Anwar, Dewi Fortuna. 2020. "Indonesia and the ASEAN Outlook on the Indo-Pacific." *International Affairs* 96 (1): 111–29. <https://doi.org/10.1093/ia/iiz223>.

combat the scourge of illegal, unreported, and unregulated fishing. In this regard, the ASEAN Open Platform on Illicit Trade is actively working to implement effective countermeasures to tackle this issue.

At the 42nd KTT ASEAN in Labuan Bajo, a number of agreements were reached, including measures to safeguard migrant workers, combat human trafficking, and tackle IUU issues in the ASEAN region. Recent reports have revealed a concerning rise in IUU activities within Indonesian waters this year, with foreign vessels utilizing advanced technologies such as Automatic Identification System (AIS) and satellite imagery to monitor and detect these illicit fishing practices.<sup>7</sup> Illegal fishing in the ASEAN region poses a threat to Indonesia's sovereignty over both biological and non-biological resources. The losses incurred in 2019 due to this activity were estimated to be Rp.91 trillion, surpassing the Southeast Asia fisheries sector revenue of IDR 738.19 million in 2020. Despite previous agreements made by ASEAN to combat illegal fishing, they have proven less effective due to the challenges faced by participating countries.<sup>8</sup> Therefore, it is imperative to identify a practical solution to eradicate illegal fishing rather than relying solely on normative agreements. The joint agreement among ASEAN nations to resolve IUU has encountered various difficulties in the ASEAN region, rendering it less effective.

The northern Makassar Strait is currently at risk due to the potential for border disputes between Indonesia and Malaysia regarding Ambalat. It is important to note that Indonesia's claim to Ambalat is based on the archipelagic state principle, which has been clearly defined by the 1982 United Nations Convention on the Law of the Sea (UNCLOS).<sup>9</sup>

Therefore, it is crucial to take measures to ensure the safety and security of this area. The Sulawesi Sea, located between Indonesia and the Philippines, is a region highly vulnerable to piracy and hijacking by armed groups, making it a prime target for global terrorists, groups, and individuals seeking illegal entry. Despite joint patrols by Indonesia, Malaysia, and the Philippines, the area remains a treacherous shipping route due to the frequent occurrence of hijackings and piracy, as well as high crime rates.<sup>10</sup>

The Makassar Strait holds a key position as a major waterway for ships heading towards the archipelago, and its importance is only set to grow in the future. This study seeks to address two critical questions: What measures are being taken to combat Illegal, Unreported, and Unregulated (IUU) fishing in the ASEAN region? And, what are the repercussions of IUU fishing in the ASEAN region on the waters of the Makassar Strait?

The aim of this research is to examine the law enforcement surrounding Illegal, Unreported and Unregulated (IUU) fishing violations in the ASEAN region, with a focus on the Makassar Strait. This waterway runs alongside the Sulawesi Sea and acts as a gateway to the Indonesian Archipelago Sea Route II, connecting the Sulawesi Sea, Makassar Strait, Flores Sea, Lombok Strait and the Indian Ocean. Despite its importance, the Makassar Strait, like many other waterways, faces several security challenges, including terrorism, human trafficking, drugs smuggling, weapons supply, and IUU fishing. The Makassar Strait has experienced significant security challenges in the past. It has been identified as a vulnerable waterway that has served as an entry point for global terrorists and the illegal importation of weapons. This illicit activity is

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<sup>7</sup> International, Rips, and Security Webinar. n.d. "RIPS International Security Webinar China's Increasingly Assertive Maritime Expansion in the Midst of the Great Power Competition - the Territorial Integrity of the Indo-Pacific Regional Countries at Stake Summary Paper," no. February 2022.

<sup>8</sup> Malik, Asmiati, Adjunct Assistant, and Universitas Bakrie. 2023. "Mengapa Negara-Negara ASEAN Perlu Mengumpulkan Dana Bersama untuk Memberantas Penangkapan Ikan Ilegal?"

<sup>9</sup> MPOC, lia dwi jayanti, and Jennifer Brier. 2020. Title." Malaysian Palm Oil Council (MPOC) 21 (1): 1–9. <http://journal.um-surabaya.ac.id/index.php/JKM/article/view/2203%0Ahttp://mpoc.org.my/malaysian-palm-oil-industry/>.

<sup>10</sup> Isman, Rustam. 2017. "Kebijakan Keamanan Maritim di Perbatasan Indonesia: Kasus Kejahatan di Laut Sulawesi – Laut Sulu." *Penelitian Politik LIPI* 14 (2): 161–78.

often conducted by smuggling networks that operate between the Southern Philippines and Poso, Central Sulawesi in Indonesia. These issues have posed a significant threat to the safety and security of the region and have required increased attention and resources to address them.<sup>11</sup> There are still international networks smuggling drugs into Makassar City through sea routes for sale.<sup>12</sup>

In accordance with the Indonesian government's plans, Jakarta is expected to relocate to the East Kalimantan archipelago by 2024. As a result, the waters of the Makassar Strait will likely see an increase in traffic from ships transporting individuals to the new capital city. It is essential that the area is closely monitored to maintain the country's security and stability. As the Makassar Strait falls under the jurisdiction of the ALKI II, the Indonesian government must respect the rights of passage, transit, and peaceful passage for foreign vessels under UNCLOS 1982. Therefore, unregulated and illegal fishing along the Sulawesi-Sulu Sea border could have severe implications for marine security and stability in the Makassar Strait.

This research is a descriptive analysis that uses a qualitative approach. The focus of this research is on the normative-empirical aspects. The normative aspect addresses the first research problem by referring to international treaties, the ASEAN Declaration, and Indonesian laws and regulations governing IUU. The empirical aspect addresses the second problem by emphasizing the findings of in-depth interviews with resource persons on the effects of supervision and law enforcement on security and stability in Indonesian waters, particularly in the Makassar Strait.

The research data was gathered from references, publications, and electronic news that discuss ASEAN countries' agreements, international agreements on IUU, government perspectives from ASEAN countries, IUU in the Makassar Strait, and other topics relevant to the research topic. Furthermore, data sources obtained from interviews and documentation were analyzed qualitatively. This study highlights a new perspective on dealing with illegal, unreported and unregulated (IUU) fishing. The research conducted by Ramadhan Marco F.P. et al. emphasizes the need for firm action to combat IUU fishing while maintaining state sovereignty, rather than just focusing on the risk of smuggling goods. However, crossing violations may lead to illegal fishing activities.<sup>13</sup> According to a study by Ifesinachi Okafor-Yarwood, illegal, unreported and unregulated (IUU) fishing continues to be a problem due to the government's lack of awareness of its maritime domain, limited human resources, and inadequate funding, which result in failure to achieve IUU goals. Additionally, surveillance efforts are ineffective due to a lack of regional state cooperation.<sup>14</sup> According to a study conducted by Suhaidi et al., one of the suggested methods to tackle the problem of IUU Fishing is to raise public awareness and educate them about the harmful consequences of engaging in such activities. This approach can help prevent individuals from participating in illegal, unreported, and unregulated fishing practices, thereby contributing towards sustainable fishing and marine conservation efforts.<sup>15</sup> The three studies mentioned above share a common point which is that the issue of illegal, unreported, and unregulated fishing (IUU) requires strong government action and

<sup>11</sup> Poltak Partogi, Nainggolan. 2016. "Kebijakan Poros Maritim Dunia Joko Widodo dan Implikasi Internasionalnya." *Politica* 6 (2): 167–90.

<sup>12</sup> Cipto, Hendra, and Dita Angga Rusiana. 2022. "Polisi Gagalkan Penyelundupan 7, 4 Kg Sabu dari Malaysia, Masuk Lewat Jalur Laut."

<sup>13</sup> P, Ramadhan Marco F, Mutiara Firsty L N A, and Sutan Syahnendra A. 2020. "Urgency of Indonesian Waters Area Protection from Illegal Unreported Unregulated Fishing Article Information Abstract." *Journal of ASEAN Dynamics and Beyond* 1 (1): 48–60.

<sup>14</sup> Okafor-Yarwood, Ifesinachi. 2019. "Illegal, Unreported and Unregulated Fishing, and the Complexities of the Sustainable Development Goals (SDGs) for Countries in the Gulf of Guinea." *Marine Policy* 99: 414–22.

<sup>15</sup> Suhaidi, Rosmalinda, Riadhi Alhayan, and Vita Cita Emia Tarigan. 2022. "Implementation of Illegal, Unreported, and Unregulated Fishing Policies in North Sumatera Province." *Cogent Social Sciences* 8 (1). <https://doi.org/10.1080/23311886.2022.2086282>.

cooperation from various parties, including raising public awareness to avoid committing IUU. Meanwhile, a new study focuses on the significance of decisive action by ASEAN countries in enforcing IUU laws, rather than just signing agreements to combat IUU. This is because IUU has an impact on Indonesia's security and sovereignty, particularly in the region and its waters, specifically the Makassar Strait.

## B. LAW ENFORCEMENT OF IUU VIOLATIONS IN THE ASEAN REGION

To protect fish resources and ensure maritime security, many countries have signed international treaties. These efforts are necessary due to concerns about depletion caused by illegal fishing and other activities that create insecurity at sea. Illegal, unreported, and unregulated (IUU) fishing is the biggest threat to countries, as it draws the attention of those who seek to profit from the sea by ignoring provisions on sea use. Improper use and exploitation of the sea can jeopardize the stability of our waters. As fish resources are an essential source of livelihood, it's vital to safeguard their existence from activities that threaten their diversity, endanger livelihoods, and increase food insecurity. The United Nations Food and Agriculture Organization is currently developing an action plan to combat IUU fishing. The UN Food and Agriculture Organization Fisheries Commission has requested FAO members to use national action plans to implement the 2001 International Plan of Action to Deter, Prevent, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA-IUU).<sup>16</sup> The IPOA-IUU is an action plan that encourages countries to adopt and implement it while considering the responsibilities of flag states, ports, and other interested parties. It is a way of implementing the United Nations Convention on the Law of

the Sea (UNCLOS) of 1982, which governs general international provisions on law enforcement both outside and within the jurisdiction of the state. As a result, UNCLOS of 1982 becomes an international provision and a reference in IUU fishing countermeasures.

The countries in the ASEAN have agreed to take action against IUU fishing, which was stated in the EAS Statement on Enhancing Regional Maritime Cooperation 2015. This political declaration is a part of the framework of maritime cooperation that aims to combat IUU fishing. The losses that occur from the exploitation of natural resources in the sea have led to IUU fishing becoming a security issue, as it endangers the welfare of the community and the sovereignty of the state.<sup>17</sup> President Jokowi has emphasized the need for a legal framework to eliminate IUU fishing.<sup>18</sup> Additionally, the Deputy of Operations and Training of the Indonesian Marine Security Agency (BAKAMLA) has pointed out that IUU fishing involves not only unauthorized fishing but also other illicit activities (drugs smuggling, slavery, human trafficking, and immigration violations).<sup>19</sup> This significantly impacts the economy of local fishermen who have the right to fish in designated areas, including the exclusive economic zone. Moreover, the social impact is related to the recruitment of local fishermen to work on illegal fishing vessels, where they work without protection and are often mistreated while sailing. Additionally, because illegal fishing methods are used, pollution and environmental damage are among the causes of this practice. As a result, IUU fishing harms ASEAN countries economically and causes social problems in the affected communities.

There are different views on the position of international treaties. According to Bolton, treaties are merely laws that apply to a state's internal interests.<sup>20</sup> However, in practice,

<sup>16</sup> Kelautan, Menteri, dan Perikanan, Republik Indonesia. 2012. "Illegal, Unreported and Unregulated."

<sup>17</sup> Arimadonna, Arimadonna. 2020. "Rpoa Norm Localization for Indonesia in Handling Iuu Fishing." *Indonesian Journal of International Law* 17 (2): 211–30. <https://doi.org/10.17304/ijil.vol17.2.783>

<sup>18</sup> Timur, K T T Asia. 2015. "Indonesia Berhasil Memasukan Kerja Sama Maritim Sebagai Prioritas Baru dalam KTT Asia Timur," no. November.

<sup>19</sup> Irawan, Laksda Bambang. 2023. "Isu IUU Fishing Masih Jadi Tantangan Serius di Indonesia."

<sup>20</sup> Kirgis, Frederic L. 1997. "Treaties as Binding International Obligation." *American Society of International Law*.

treaties serve as political statements with no legal force. As a result, a state is not obliged to be bound by treaties. Nonetheless, in an international court, international treaties are a source of law that is used as a basis for deciding disputes submitted to the court and recognized by the parties to the dispute. This is outlined in Article 38 of the International Court of Justice Statute. Eradicating IUU fishing is a requirement under international law, and a state must exercise its jurisdiction to meet this demand. Bilateral and multilateral cooperation is still being carried out to encourage strong fisheries' governance towards the prosecution of IUU perpetrators. The application of extraterritorial jurisdiction against citizens involved in IUU fishing is an effective solution for eradicating IUU fishing, and countries are committed to implementing what has been agreed upon.<sup>21</sup> The government needs to regulate fishing practices to prevent IUU fishing. Extraterritorial jurisdiction can be applied to address this issue. Countries are committed to following international laws, such as UNCLOS 1982, to prevent and eliminate IUU fishing. ASEAN member countries have agreed to cooperate to prevent, catch, and eliminate IUU fishing by ratifying international treaties protecting fish resources. They also support the Regional Plan of Action (RPOA) against IUU fishing and aim to promote responsible fishing practices in the region. Therefore, states must work together to regulate and combat IUU fishing.

In accordance with the ASEAN statement of cooperation, national law enforcement against IUU fishing emphasizes the state's responsibility to enforce administrative, civil, and criminal sanctions. It also mandates that vessels flying its flag refrain from engaging in IUU fishing and uphold fish resource management and conservation, while eliminating the benefits of IUU fishing violators. The ASEAN cooperation statement is comprehensive, requiring a strong

commitment to ensure its implementation. Researchers suggest that the ASEAN countries' agreement should have a robust framework to prevent the import of illegally caught fish. A joint commitment is necessary to take action and monitor citizens engaged in IUU fishing, as well as to respect legal sanctions imposed by other countries on their citizens for violations committed. Additionally, it is crucial to monitor the distribution of IUU-caught fish resources to prevent their acceptance in the fish auction market.<sup>22</sup> Monitoring fisheries entails a great deal of dedication and effort when it comes to tackling unconventional security challenges such as the AOIP framework that pertains to regional maritime security. This means that a thorough understanding of the AOIP framework is crucial to ensure the effective implementation of fisheries monitoring, which in turn, helps to address security threats and promote sustainable fisheries management.<sup>23</sup>

In the past, regional agreements have been set aside when they conflicted with the national interests of ASEAN member states, which is an indication of a lack of commitment to the agreements made. This highlights the importance of good faith among countries in implementing agreements. In this regard, the Indonesian government has the responsibility to assess and hold ASEAN countries accountable for failing to honor their commitments.

To address the issue of IUU fishing, researchers suggest that the Indonesian government should prioritize enhancing border surveillance and enforcement measures. This should be based on a joint agreement to impose administrative, civil, and criminal sanctions, as well as confiscating the proceeds of IUU fishing. This approach is more effective than waiting for an ASEAN-wide commitment to combat IUU fishing.

Therefore, effective monitoring and law enforcement against IUU fishing violations in the ASEAN Region requires a firm commitment

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<sup>21</sup> Honniball, Arron Nicholas. 2021. "Engaging Asian States on Combating IUU Fishing: The Curious Case of the State of Nationality in EU Regulation and Practice." *Transnational Environmental Law* 10 (3): 543–69. <https://doi.org/10.1017/S2047102520000461>

<sup>22</sup> *Ibid.*

<sup>23</sup> Basundoro, Alfin Febrian. 2022. "Kerja Sama Indonesia-Jepang untuk 'Illegal Fishing.'" *Detik News*, 1–1.

from ASEAN countries. This will also require strengthening monitoring and law enforcement in the jurisdiction of ASEAN countries. By doing so, the ASEAN countries will be able to maintain a sustainable and responsible fishing industry while also promoting environmental conservation.

### C. THE EFFECTS OF IUU FISHING IN THE ASEAN REGION ON WATERS IN THE MAKASSAR STRAIT

Indonesia is an active participant in the international community and has borders that are shared with neighboring countries. However, this proximity can often lead to conflicts, particularly in regard to border disputes and natural resources. An enduring example of such a disagreement is the Ambalat Block, a 15,235-kilometer-long sea block situated in the Sulawesi Sea between Sabah and East Kalimantan, near the Makassar Strait. The Ambalat Block is a valuable source of oil and gas, making it a highly desirable resource. Furthermore, illegal fishing is a significant issue in the Ambalat Block.<sup>24</sup> The Sulawesi Sea is strategically significant since it borders Malaysia and the Philippines. The International Maritime Organization's (IMO) report shows that the Sulawesi Sea contains waters susceptible to maritime criminal activities such as IUU fishing.<sup>25</sup> The Automatic Identification System (AIS) has provided evidence that fishing vessels from the Philippines were spotted near the boundary of the Indonesia-Philippines Exclusive Economic Zone (EEZ). The data suggests that the boats engaged in illegal fishing activities, causing harm to the marine life in the area. Such activities not only threaten the environment but also violate the laws and regulations set by the respective countries.<sup>26</sup> As per the report released by the Ministry of Maritime Affairs and Fisheries, during their supervision in 2023, they

managed to seize 33 illegal fishing vessels. These vessels were caught red-handed while stealing fish from the Indonesian Fisheries Management Area. Out of these 33 vessels, 25 were Indonesian fishing vessels, and the remaining 8 were foreign fishing vessels. The Ministry's swift action against these illegal activities is commendable.<sup>27</sup> When illegal fishing takes place, a surveillance ship chases foreign fishing vessels detected by its radar. The fishing vessels typically cut their nets and flee to the gray area, which are locations where overlapping claims exist. The intention behind this is to avoid being caught by supervisory officers who do not exercise their authority in the gray area. This has become a new mode of operation for these fishing vessels.<sup>28</sup> The Sulawesi Sea that borders the Makassar Strait is a haven for various marine species. Unfortunately, foreign vessels frequently engage in illegal fishing activities in this area. This illicit practice not only poses a threat to the region's marine ecosystem but also deprives the locals of their livelihood. It's imperative that we take action to curb this illegal activity and preserve the natural resources of the Sulawesi Sea.

The Makassar Strait plays a crucial role in the Indonesian Archipelago Sea Route (ALKI) II, a sea route that connects the Sulawesi Sea, Makassar Strait, Lombok Strait, and Lombok Sea. This route serves as a major gateway for foreign ships traveling from Africa to Southeast Asia and Japan, as well as from Australia to Singapore, China, and Japan. The Makassar Strait is a narrow stretch of water that lies between the islands of Borneo and Sulawesi, measuring approximately 500 kilometres in length and 120 kilometres in width. It is known for its challenging navigation and strong currents, which require skilled and experienced seafarers to navigate safely. Despite its challenges, the Makassar Strait

<sup>24</sup> Dzulviqor, Ahmad, Robertus Belarminus, and Perairan Ambalat. 2022. "Memancing Ikan di Perairan Ambalat, Belasan WN Malaysia Diamankan."

<sup>25</sup> Pushidrosal. 2018. "Strategi Pertahanan Laut dalam Rangka Ancaman Keamanan di Alur Laut Kepulauan Indonesia II." *Jurnal Strategi Pertahanan Laut* 5 (1): 15–30.

<sup>26</sup> Analysis, Maritime Security. 2021. "IUU Fishing di Laut Natuna Utara, Laut Sulawesi dan Selat Malaka – Juni 2021." Indonesia Ocean Justice Initiative.

<sup>27</sup> Sahputra, Yogi Eka. 2023. "Kapal Illegal Fishing Filipina Ditangkap, Gunakan Modus Baru."

<sup>28</sup> Direktorat Jenderal Pengelolaan Ruang Laut. 2021. "Sejarah Direktorat Jenderal Pengelolaan Ruang Laut." Kementerian Kelautan dan Perikanan, no. 0951: 1–2.

remains a crucial waterway for international maritime trade, facilitating the movement of goods and people across the region.<sup>29</sup> The Makassar Strait is home to around one thousands small islands that are spread between Sulawesi Island and Kalimantan Island. These islands offer a wealth of natural resources that can be used to benefit and improve the lives of the local community. However, the strait is situated between two oceans and is frequented by a variety of ships engaged in different activities, which poses several threats to marine security, including the smuggling of weapons. Traditionally, arms smuggling around the Sulawesi Sea occurred through the Indonesian border in Kalimantan or Sulawesi. Moreover, the small islands surrounding the strait provide an ideal hideout for international terrorists to conduct their operations. Terrorists often cross the border between Indonesia and the Philippines to carry out terrorist attacks, such as the ones that took place in Poso.<sup>30</sup> It has become widely known that areas surrounding ALKI, and specifically ALKI II, have been identified as hotspots for terrorist activities. After careful analysis of data, it has been discovered that the most frequent types of crimes committed in these areas are those that occur at sea:

Table 1  
Data on most crimes at sea in 2015-2019

No	Year	Type of crime			
		Illegal fishing	Smuggling of goods	Drug smuggling	Without permission/documents
1	2015	151	35	13	58
2	2016	143	97	15	68
3	2017	122	56	16	35
4	2018	68	66	49	37
5	2019	84	19	13	22
	Total	568	273	106	220

Source: Renstra Bakamla 2020-2024

Over the past few years, various forms of economic crime such as illegal fishing, smuggling of goods and drugs have become prevalent in Indonesia, causing significant harm to the state. These activities reflect the insecurity of Indonesian seas and the need for urgent action to eliminate them. In preparation for the relocation of IKN to East Kalimantan, it is imperative to exercise strict supervision over the utilization of the Makassar Strait as an island channel. Proper management of fish resources is of utmost importance to ensure compliance with statutory regulations. With the expected increase in shipping activities, especially those visiting IKN, the Makassar Strait is particularly susceptible to sea crime. Hence, it is necessary to carry out adequate supervision to prevent such incidents and ensure safety for all.

As stated in Article 2 of UNCLOS 1982, in the event that a ship breaches any regulations set forth by the coastal state in its territorial sea or inland waters, the coastal state reserves the right to enforce its legal regulations and criminal law against the offending vessel. This is particularly applicable if the violations pose a threat to the coastal state or disrupt its security. Furthermore, according to Article 24 paragraph (1) of the Law on Waters, "the enforcement of sovereignty and law in Indonesian waters, the airspace above it, the seabed and the land beneath it, including the natural resources contained therein, as well as sanctions for violations thereof, shall be carried out in accordance with the provisions of the Convention and other international law, as well as applicable laws and regulations." Based on the statement of a law enforcement officer at sea, it was reported that "The stipulation of the archipelagic sea flow is not only regulated in Law No. 6 of 1996 concerning Indonesian Waters, but also regulated in Law No. 17 of 2008 concerning Shipping, Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Vessels and

<sup>29</sup> Lestari, Maria Maya. 2021. "What Is the Right, Archipelagic Sea Lanes and Passage? (According To Unclos 1982 and Practice)." *Indonesian Journal of International Law* 18 (2): 209–28. <https://doi.org/10.17304/ijil.vol18.2.809>.

<sup>30</sup>Nainggolan, Poltak Partogi. 2015. "Indonesia dan Ancaman Keamanan di Alur Laut Kepulauan Indonesia (ALKI)." *Kajian* 20 (3): 187–88. <https://dokumen>.

Aircraft in Carrying out the Right of Passage of the Archipelagic Sea Flow through the Established Route, Government Regulation No. 5 of 2010 concerning Navigations and the Implementation Guidelines of the TNI Commander concerning the Safeguarding of the Indonesian Archipelagic Sea Flow. Furthermore, there are still uncoordinated regulations in place for the archipelagic channel. Regulation discord leads to legal issues and law enforcement problems. As a result, it is critical to regulate this situation by enacting legislation that clearly regulates law enforcement issues. The application of various laws and regulations governing Indonesian waters without harmonization, alignment, and adjustment efforts will almost certainly result in problems".

According to the Staff Sub. Directorate of Supervision of Marine Protected Areas and Marine Biodiversity at the Ministry of Maritime Affairs and Fisheries Jakarta: "Supervision at sea can be carried out with a hard structure approach, namely by examining ship licensing documents, using monitoring tools, supervision at sea both independently and integrated by authorized institutions or agencies, and a soft structure approach, which can be carried out in collaboration with authorized institutions or agencies." There are three authorized agencies in fisheries law enforcement based on Article 73 of Law Number 31 of 2004 as amended by Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, namely the Ministry of Maritime Affairs and Fisheries (MMAF), the Navy, and the National Police. However, this law does not regulate a clear division of authority and a definite work mechanism. So that the three agencies have the same authority in fisheries law enforcement without any integration of the implementation system. This has the potential for conflict of authority, because these three agencies have the authority to handle the same case". Likewise, violations in ALKI II are enforced by Indonesian law if proven to have committed violations, including

criminal law that has an impact on the security of the Makassar Strait. This is in line with Article 2 of UNCLOS based on the sovereignty granted by the coastal state.

In Indonesia, the task of ensuring law enforcement and maritime security falls under the jurisdiction of multiple agencies that possess legal authority. These include Customs, the Sea and Coast Guard Unit (KPLP), the Ministry of Maritime Affairs and Fisheries (KKP), the Indonesian Water Police (POLRI), the Indonesian National Navy (TNI AL), and Bakamla. Their authority extends to territorial waters. Additionally, the Indonesian Navy, Customs, KKP, and Bakamla are responsible for monitoring the Indonesian jurisdiction, which encompasses areas beyond the territorial waters. The supervision of the Indonesian Exclusive Economic Zone is a collaborative effort between various entities including the KKP, the Indonesian Navy, and Bakamla. The Indonesian Navy and Bakamla oversee the continental shelf and international waters, while the KKP enforces strict regulations on ships that violate marine and fisheries resource supervision protocols. The WPPNRI 713 frequently conducts operations aimed at detecting fishing violations. One of the most common violations detected during these operations is the practice of "markdown". This is when fishers manipulate the size of their ship and obtain a fraudulent Fishing License (SIPI 31). This fraudulent activity allows them to exceed their fishing quota and catch more fish than they are legally allowed to. In addition, data up to June 2023 shows that there will be a total of thirty-one Marine and Fisheries Supervisory Ships, which will work to enforce fishing regulations and prevent further violations. With the following details: 5 Class I KPs (> 50 meters long), 3 units of class II KPs (40-50 meters long), 12 units of class III KPs (30-40 meters long), 10 units of class IV KPs, and 1 unit of class V KP. Ideally, 70 units of vessels are needed to oversee the management of the Indonesian Fisheries Territory.<sup>31</sup> Thus, the Makassar Strait, which is archipelagic waters, is

<sup>31</sup> Shafina, Gamma. 2023. "Mengulik Praktik IUU Fishing di Perairan Indonesia dan Solusinya." GoodStats. <https://>

[goodstats.id/article/mengulik-praktik-iuu-fishing-di-perairan-indonesia-dan-solusinya-TnkZm](https://goodstats.id/article/mengulik-praktik-iuu-fishing-di-perairan-indonesia-dan-solusinya-TnkZm).



supervised by six agencies with authority at sea and limited supervisory vessels.

The Makassar Strait is an important waterway that connects the Indian Ocean and the Pacific Ocean, making it a crucial route for international maritime trade. In order to maintain security and order in the strait, all users are expected to participate. This includes Indonesia, which is responsible for protecting its archipelagic waters and straits that are open to international maritime trade. It also includes ships passing through the strait, which are charged with enforcing international agreements that have been reached by the parties. These agreements are outlined in Parts III and IV of the 1982 UN Convention on the Law of the Sea.

The international community and Indonesia must play their respective roles in maintaining the navigation regime. This is crucial for ensuring that the strait remains safe and accessible for all users. User states are responsible for exercising their navigation rights in a way that does not harm Indonesia's marine environment. This is particularly important for straits that are used as archipelagic sea lanes and for fisheries management. These straits require integrated surveillance that is coordinated with user vessels and guided by international treaties and national laws.

In summary, it is important for all users of the Makassar Strait to work together to maintain security and order. This involves following international agreements and laws and taking steps to protect Indonesia's marine environment. By doing so, we can ensure that the strait remains a vital and safe route for international maritime trade.

Government Regulation No. 13 of 2022 regulates the handling of security and safety and law enforcement in the Indonesian jurisdiction by ministers, agencies, related agencies and technical agencies. This Government Regulation is an implementation of Law No. 32 of 2014 concerning Maritime Affairs. If you consider Law No. 31 of 2004 jo. Law No. 45 of 2009 concerning Amendments to Law No.31 of 2004 concerning Fisheries and Law No. 32 of 2014 concerning Maritime

Affairs, that the handling of law enforcement at sea in each law is different. Based on Article 33 of Government Regulation No. 13 of 2022, a Forum for Security, Safety and Law Enforcement at Sea (KKPH) has been established based on the Decree of the Coordinating Minister for Political, Legal and Security Affairs No. 55 of 2022.

The KKPH Forum is a highly valuable and much-needed platform for discussing security and safety concerns at sea. The Forum's primary objective is to bring together experts and stakeholders to collaborate and develop solutions for the complex challenges faced by maritime authorities. The Forum's discussions and recommendations are geared towards finding effective solutions, alternative policies, and national patrol plans, as well as information systems that can help prevent and mitigate maritime security threats.

According to Article 4, paragraph (2) of the Government Regulation, Bakamla is responsible for coordinating the pursuit, interception, examination, arrest, and transfer of criminals to relevant authorities for prosecution. This critical mandate is essential in ensuring that criminals are brought to justice and that the seas remain safe for all. Additionally, Bakamla can take action against vessels that engage in illegal fishing, which is a significant problem in many maritime regions.

However, the jurisdictional authority for arresting foreign vessels that violate the country's sovereignty by entering state territory without permission lies with the Indonesian Navy. Article 9 of Law No. 34 of 2004 stipulates this authority, and the Indonesian Navy is the primary agency tasked with enforcing it. The Navy's mission is to provide maritime defense, law enforcement, and marine security within the country's jurisdiction, following national laws and treaties.

In conclusion, the KKPH Forum, Bakamla, and the Indonesian Navy are all essential players in ensuring maritime security and safety. Their efforts towards developing solutions, coordinating actions, and enforcing laws are vital to maintaining the integrity of the seas and protecting everyone who relies on

them. According to TNI Law and Government Regulation No.13 of 2022, there is a division of authority at sea. Adhering to this regulation can help avoid any conflicts of authority. Bakamla's integrated and coordinated supervision, handling, and law enforcement based on these government regulations provides a solution to the conflict of authority between agencies with authority at sea. Working together in synergy to conduct integrated supervision will make it easier to coordinate with interested parties and achieve the goals and objectives. In addition to institutional coordination and policy integration, the use and management of the sea requires agreement and compromise from all parties. The purpose of surveillance in the Makassar Strait, which serves as an archipelagic sea route and WPPRI 713, is to ensure legal certainty, maintain the country's security and order, protect its natural resources, and ensure the safety of shipping carried out by foreign ships as a form of responsibility on the part of the archipelagic state.

#### D. CONCLUSION

IUU fishing is an issue that not only causes harm to the marine ecosystems of ASEAN countries but also has social implications for the affected communities. IUU fishing practices are a violation of international law and must be regulated by states. However, regulating IUU fishing requires cooperation in monitoring and law enforcement. Such cooperation is vital for ensuring the security and stability of state sovereignty. It demands a firm commitment and must strengthen monitoring and law enforcement in each ASEAN country's jurisdiction to combat IUU fishing violations effectively.

The ASEAN region, specifically the Sulawesi Sea-Sulu Sea, is facing a serious issue due to the presence of IUU fishing, which is causing a negative impact on the security and stability of the waters of the Makassar Strait. As ALKI II, a region that connects two continents and two oceans, is frequently used by foreign ships, it is common to witness economic crimes and traffic violations. This calls for strict

supervision and law enforcement, which could be achieved through an integrated and collaborative effort with agencies that hold authority at sea, based on international treaties and national laws. With the plan to relocate the national capital to IKN, the shipping traffic through the Makassar Strait is expected to increase, making it crucial to take immediate measures to ensure the safety and security of the waters.

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