

CHAPTER I

INTRODUCTION

A. Background

Indonesia is known as a maritime state in which two-thirds of its territory are sea territory.¹ The area of Indonesia waters is about 5.8 billion sq.km which contains beneficial marine treasures such as fisheries potential, marine industry, transportation, and nautical tourism.² One of the profitable marine sector in Indonesia is fisheries resources. The selling rates of fishes from this sector could be granted at least 6.4 billion tons per year.³ Unfortunately the abundance of fisheries sectors has been attracting foreign fisherman to illegally exploit it.

Illegal, Unreported and Unregulated (IUU) fishing is not a new phenomenon in the fishery sector. Illegal fishing usually occurs in the exclusive economic zone (EEZ) of coastal States by national and foreign ships, and it also can be found in rivers and inland fisheries. The disadvantages from illegal fishing vary, for instance IUU fishing will give disadvantages and discriminate against those fishers that act responsibly, undermine national and regional effort to conserve and manage fish stocks, damaging marine ecosystem, and interfere the sovereignty of a states even more.

¹ Soebachman, A., *Sejarah Nusantara Berdasarkan Urutan Tahun*, Yogyakarta: Surya Media Utama, 2014.

² Kementerian Sekretariat Negara RI., 'Memberantas Illegal Fishing Secara Tuntas', *Presiden Republik Indonesia's web site*, on 12 May 2015, <<http://presidenri.go.id/maritim/memberantas-illegal-fishing-secara-tuntas.html>>, [accessed on 12 December 2016].

³ Dahuri, R., *Cetak Biru Pembangunan Kelautan dan Perikanan Manuju Indonesia Yang Maju, Adil Makmur, dan Berdulat*, Bogor: PKSPL-IPB, 2010.

Handled by Fisheries and Aquaculture Department, in 2009 FAO held the conference which focused on the illegal fishing settlement. It resulted the milestone of illegal fishing settlement named 2009 FAO Port State Measures Agreement. The purpose of the bills is to prevent, deter, and eliminate illegal, unreported, and unregulated (IUU) fishing through the implementation of robust port State measures.⁴

Port State Measures (PSMs) are requirements set by port states where a foreign fishing vessels must comply with or be subjected to as a condition for use of ports within the port states. The requirements that must be met are associated with prior notification of the entry port, use of designated ports, restrictions on transshipment of fish, restrictions provided and services, the port inspection and documentation requirements. Besides, PSMA also creates the list of IUU vessel listing, trade-related measures, and sanction in order to anticipate the entry of illegal foreign fishing vessels within the port.⁵

In the interest of tackling illegal vessels, FAO recommended the implementation of Port State Measures within the states. Along with that, the adoption of PSM as national legal frameworks is important. It could empower national authorities to take adequate enforcement actions against vessels which commit to IUU fishing in their ports.

⁴ FAO. (2016, October 17). Port State Measures Agreement. Retrieved from Food and Agriculture Organization of the United Nations: <http://www.fao.org/fishery/psm/agreement/en> on December 9th 2016

⁵ Skonhofs, A, 'Port State Measures', *FAO Fisheries and Aquaculture Department's web site*, on 13 May 2016, <<http://www.fao.org/fishery/psm/en>>, [accessed on 9 December 2016].

Therefore FAO tried to pursue each coastal states to ratify and implement 2009 FAO Port State Measures Agreement. There are some benefits that could be achieved by ratifying and implementing the bills. The state's party which ratifies and implements the bill can actively contribute to strengthen fisheries management and governance at all level, enhance regional and international cooperation to block the flow of IUU fishing, and create communication forum to facilitate the marine's state in exchanging data related to the illegal vessels.

Through the regular work of FAO PSMA and the mutual linkage among the state's party, FAO encouraged each marine's state to include port state measures in their national legislation. Even though this bill is binding, but the countries are free to adopt more stringent measures than those outlined in the agreement.

As one of the biggest maritime countries in the world, Indonesia faced several difficulties in securing its waters territory. The practice of IUU fishing in Indonesia usually happens in the vulnerable area such as Natuna waters, North Sulawesi waters, Maluku waters and Arafura Sea. These kind of activities could inflict a financial lost toward Indonesia for about 30 trillion rupiah per year.⁶ Besides, the threat on sovereignty matter also occurred due to the practice of IUU fishing.

Indonesia needs to look for better settlement to asses IUU fishing matter. Therefore ever since the FAO PSMA was established in 2009, Indonesian government already put an interest to ratify the bills. However, ever since then,

⁶ Solihin, A., *Politik Hukum Kelautan dan Perikanan*, Bandung: Penerbit Nuansa Aulia, 2010.

Indonesia seems sluggish in response to the agreement. But the wait to get better settlement for this matter seemed over, when Indonesia decided to ratify the bill on 23 June 2016. Based on that argument, the writer would like to seek the reason behind the decision of Indonesia in ratifying FAO PSMA. Following with those, therefore the writer feels the need to put a title of The Implementation of FAO Port State Measures Agreement (FAO-PSMA) to Combat Illegal Unreported Unregulated (IUU) Fishing in Indonesia.

B. Research Question

Based on the background described previously, the writer decided the core of the issues as a reference or a source of research and writing as the following: *“Why did Indonesia finally ratify FAO Port State Measures Agreement (FAO-PSMA)?”*

C. Theoretical Frameworks

In answering the research question, the researcher uses several approaches, which are the concept of national interest, theory of foreign policy decision making process, and the concept of international organizations. All the nations are always engaged in the process of fulfilling or securing the goals of their national interests.

1. National Interest

National interest is a set of values that are used for justifying the actions of every states. All nations are always engaged in the process of fulfilling or securing their national interests. According to Hans J. Morgenthau, national interest is the primary element which influences the process of foreign policy and international

politics of a nations. The purpose of national interest is pursuing power that can be used as a main tool to maintain and influence other states. Hence, this power could not be achieved without empowering the national power and the international politics itself since the main purpose of foreign policy is finding, maintaining, and strengthening the national interest.⁷

According to Jack C. Plano and Roy Olton⁸, national interest could be defined as:

“National interest is the fundamental objective and ultimate determinant that guides the decision-makers of a state in making foreign policy. The national interest of a state is typically a highly generalized conception of those elements that constitute the state’s most vital needs. These include self-preservation, independence, territorial integrity, military security, and economic well-being.”

The value of national interest of a states can be different from other states. However, the national interest emerges due to the limited national resources or national power. Thus, for maintaining the preservation of a state, they should look for the fulfillment of national interest out of its borders.⁹

2. Foreign Policy Decision Making Process

Foreign policy is a main instrument to achieve national interest for every state. A successful foreign policy could be determined by protecting and advancing the national interests and contributing to the preservation and enhancement of

⁷ Warsito, T., *Teori-Teori Politik Luar Negeri, Relevansi, dan Keterbatasannya*, Yogyakarta: Bigraf Publishing, 1998.

⁸ Plano, J. C., & Olton, R., *International Relations Dictionary*, 1991.

⁹ Morgenthau, H. J., *Politik Antar Bangsa*, Jakarta: Yaysan Obor Indonesia, 1991.

state's status and power without being unduly to the national interest, power, and status of others. Thus, the basic strategies are applied in a number of decisions made in the foreign policy of a state. The actors and decision-makers of foreign policy will consider the factors that affect the process of foreign policy decision-making. The individuals who are in the context related to the group of people who have capacity to decide policies are actually not able to create any policies without any consideration affecting it.

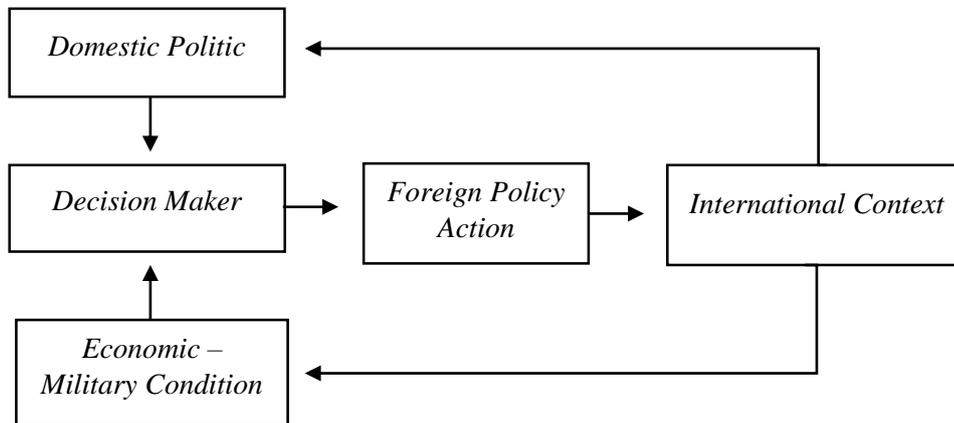
According to William D. Coplin as stated in his book entitled Introduction of International Politics¹⁰, he argued:

“To be interested in why states behave as they do interest area, we have to be interested in why their leaders make the decision. However, it would be mistake to think that foreign policy makers act in vacuum. On the contrary, any given foreign policy act may be viewed as the result of three board categories of considerations affecting the foreign policy decision maker state. The first is the domestic politics within the foreign policy decision maker's state; the second is the economic and military capability of the state; the third is the international context the particular position in which his state finds itself especially in relation to other state in system.”

To clarify the understanding of this theory, William D. Coplin explains through this following figure:

¹⁰ Coplin, W. D., 'Model of Decision Making', *Pengantar Ilmu Politik: Suatu Telaah Teoritis*, ed. by M. Marbun, Bandung: Sinar Baru, 1992.

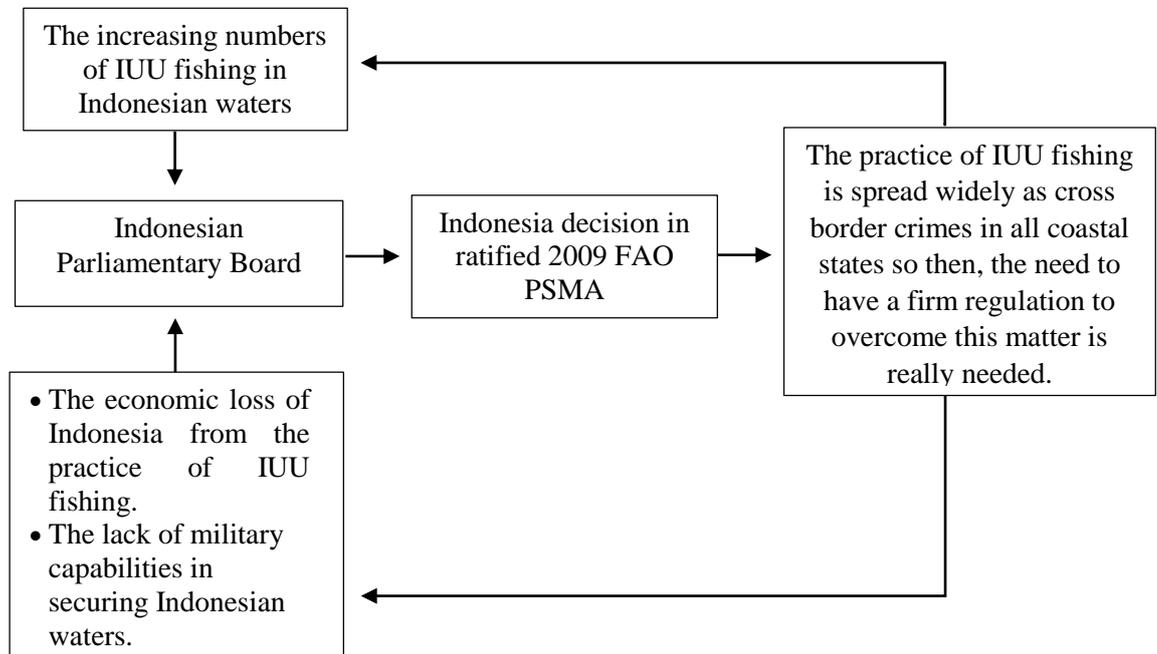
Figure 1.1 The Effect of Determination on the Foreign Policy Actions



Source: *Pengantar Politik Internasional: Suatu Telaah Teoritis* by Coplin, W.D., & Marbun, M. (2003). Bandung: Sinar Baru Algesindo.

Based on the figure above, William D. Coplin mentions three important considerations affecting the process of foreign policy decision making. The first stage is domestic politic which is dominated by the circumstance of the political situation within a state. Besides, the type of government and cultural factors also play important point in deriving the behaviors of the policy makers. The second stage is economic and military capability. According to the model of foreign policy decision-making by William D. Coplin, the economy and military capabilities of a country are affected by international context. The third factor is international context. It is believed that other states' foreign policies which influence the domestic politics, economic and military capabilities affect decision maker in formulating the foreign policy. The implementation of this theory is illustrated in the chart below.

Figure 1.2 The Illustration of the Applied Theory



Based on the chart above, it is described that Indonesian foreign policy about IUU fishing matters is shaped by condition of domestic politics, economic and military capabilities, and the international context. The domestic politics plays a vital role in shaping governmental actions.¹¹ The influence of domestic politics can be demonstrated here with an example: the government of Indonesia had to uphold law affirmation toward the illegal fishing which had been occurred in several Indonesia's waters. This decision was based on the increased illegal fishing which could threats Indonesia's sovereignty. Besides, the various cases of illegal fishing which were done by foreign vessels could bring the downgrading quality on Indonesia's economic and national sovereignty. Thus, a fundamental aspect in the

¹¹ Evans, N., 'What is the Relationship between Domestic and Foreign Policy? Sould They Even Be Distinguished?', *E-International Relations Student's web site*, on 16 May 2009, <<http://www.e-ir.info/2009/05/16/what-is-the-relationship-between-domestic-and-foreign-policy-should-they-even-be-distinguished/>>, [accessed on 11 December 2016].

relation between domestic and foreign policy is the prominence of national identity and a consistent need to protect such value.

The second instrument which influences the process of foreign policy decision making is economic and military capability. Both these elements greatly influence the result of foreign policy decision making.¹² In this context, the economic condition of Indonesia, however, is in decline. In 2011, the national income from fishery export was only worth US\$3.34 billion. This number was much less than Vietnam's fishery data export which reached on US\$25 billion. These data showed how weak Indonesia's fishery exports level, whereas in term of are waters and the coastline, Vietnam only has a small territory compare to Indonesia.¹³ In term of military capability, Indonesia's military still faces difficulties in securing Indonesian waters. It could be seen in the imbalance number between military forces and the vulnerable Indonesian waters which is prone with the illegal fishing.

The last instrument which could influence foreign policy of a state is international context. International context assumes international conditions as one set of factors influencing foreign policy activities of states, remembering that those who make foreign policy do not always perceive the international context as the analyst perceives it. International context also becomes the consideration of action which would be taken by a state in response to the emerging issues. Furthermore, international context tells the position of the relations with other states in

¹² Jatmika, S., *AS Penghambat Demokrasi: Membongkar Politik Standr Ganda Amerika Serikat*, Yogyakarta: Bigraf, 2009.

¹³ Kementerian Sekretariat Negara RI., *loc. cit.*

international systems. Regarding to this topic, the practice of IUU fishing is widely spread in all coastal states which is affected the economic loss of a country. Indonesia also becomes favorite target for foreign fishing vessels because its territory not monitored intensively. Besides, the emergence of this issue which spreads widely encourages each coastal state to create mutual cooperation to overcome issues. Therefore, as the responsible board, FAO held several conferences related to the strategy for eliminating IUU fishing. One of the remarkable conferences was Port State Measures Agreement (PSMA) in 2009. This was known as the beneficial conference that argued about the international standard to control the traffic of foreign fishing vessels which entered a country through the port. Hereinafter, this conference will be adopted as the binding agreement, so that each country can have a legal framework to overcome the IUU fishing matters. Analysis of employing the decision-making theory especially foreign policy decision is expected to be able to reveal the fact behind the reasons of Indonesia in ratifying the FAO-PSMA.

3. International Organization

Generally, international organization could be defined as organizations that are created by agreement among states. According to J. Samuel Barkin international organizations are inclusive intergovernmental organizations, which relatively a new phenomenon in international relations.¹⁴ In nineteenth century, the society started to create an organization by treaties among states in order to deal with problems

¹⁴ Barkin, J. S., 'Sovereignty and Globalization', *International Organization: Theories and Institutions*, New York: Palgrave Macmillan, 2006, p. 5.

which were commonly faced by states. At first, they arranged kind of organizations which address very specific issues, for instance, economic and technical nature, such as creating rules for navigations on the Rhine River, delivering international mail, and managing the Pacific fur seal fishery in a sustainable manner.¹⁵

The modern phase of international organization was shaped during the World War I (1914-1918) by creating League of Nations. After the end of the World War II, the transformation of League of Nations emerged into United Nations. The establishment of United Nations aimed to maintain international peace and security, encourage international cooperation among nations, create a friendly-relations among member's states, and to recognize the fundamental rights of all people.¹⁶

The increasing number of various issues on international level becomes the premise reason of international organization's development. Therefore, the existence of international organization is necessary to assist certain problems among states. Thus, there are several points about the purpose of international organization in international, national, or individual level.¹⁷ In this context, the purpose of international organization will be examined clearly focusing at the international level.

¹⁵ Shanks, C., Jacobson, H., & Kaplan, J., 'Inertia and Change in the Constellation of International Governmental', in *International Organization: Theories and Institutions*, ed. by J. S. Barkin, New York: Palgrave Macmillan, 1996, pp. 593-628.

¹⁶ Pease, K.-K. S., *International Organizations, Perspective on Governance in the Twenty-First Century*, New York: Pearson, 2010.

¹⁷ Mignst, K., *Essential of International Relations*, New York: WW Norton and Company, 1999.

The first aim of international organization is contributing to create mutual cooperation among states. International organization can be the connector between or among states to interact, so that will bring beneficial cooperation.

The second aim is providing information and acting as supervisor. Regarding to this, United Nations already applied this purpose by controlling specific issues comprehensively through UN agencies and delivering the trustworthy information to the society in a world wide scale. Thus, United Nations has been managing the issues of illegal unreported unregulated fishing (IUU) fishing by conducting case's assessment which was held by Food and Agriculture Organization.

The third aim is international organization acts as the third party to mediate or arrange some reconciliations for the conflict assessment. The fourth aim is coordinating the states which have the same interest on certain issues to find out the better settlements. In this context, Food and Agriculture Organization as the responsible UN agencies has already made some assessment, seminar, and conference about the issues of IUU fishing with the maritime states or with countries that are experiencing the same problem.

The presence of international organization such as United Nations and Food and Agriculture Organizations in dealing with the problems like illegal unreported unregulated fishing (IUU) fishing in Indonesia is really helpful. This is because United Nations and FAO could provide the information, mediation, or conference

for the countries which experience the same problems in order to seek the best settlement.

D. Hypothesis

Hypothesis is the temporary statement to answer the matter on this topic. Hence, the researcher argues that the hypothesis toward this topic is the reasons behind the ratification of 2009 FAO Port State Measures Agreement (PSMA) by Indonesia are derived from three important consideration which are the increase numbers of IUU fishing in Indonesian waters, the lack of Indonesian law enforcement about IUU fishing, and the need to overcome the practice of IUU fishing by cooperating in the global level.

E. Research Purposes

In writing this undergraduate thesis, there are several purposes that could be asserted:

1. To find out Illegal Unreported Unregulated Fishing (IUU Fishing) and IUU Fishing which occur in Indonesia's waters
2. To find out FAO Port State Measures Agreement (PSMA) as one of the international agreements to combat Illegal Unreported Unregulated Fishing (IUU Fishing)
3. To find out factors which make Indonesia government deciding to ratify FAO Port State Measures Agreement (PSMA)

4. To fulfill the requirement to obtain a bachelor degree in International Relations Major, Faculty of Social and Political Science, University of Muhammadiyah Yogyakarta.

F. Research Methods

The research method that the researcher uses in this undergraduate thesis is qualitative research. It is used to explain the problems and to verify the hypothesis based on the empirical reality. The sources of information or references are collected in the form of books and literatures. In addition, various data from internet such as e-book, journals, e-news, articles, and other literary sources will also be used.

G. Scope of Research

In this undergraduate thesis, the researcher will focus on the factors that influence the Indonesia's government in ratifying FAO Port State Measures Agreement (PSMA). The interval time of research began in 2009 during the establishment of FAO Port State Measures Agreement (PSMA) until the time this research is conducted.

H. Systematics of Writing

This undergraduate thesis is systematically written based on the rules applied in a scientific writing. It is divided into several chapters with various discussion subtopics, as follows:

Chapter I : This chapter provides the introduction of thesis. This chapter consists of background, research question, theoretical framework,

hypothesis, research purposes, scope of research, description of methodology, and system of writing.

Chapter II : This chapter provides the explanation on FAO Port State Measures Agreement (PSMA). The outline of this chapter is the general understanding on IUU fishing and port State measures and the development of FAO Port State Measures Agreement (PSMA).

Chapter III : This chapter provides the dynamism of Illegal Unreported Unregulated (IUU) fishing in Indonesian waters. The outline of this chapter explains the overview of Indonesian marine wealth and IUU fishing, the dynamism of IUU fishing in Indonesia, and the Indonesian advantages over ratifying FAO PSMA.

Chapter IV : This chapter provides explanation and analysis of the reason behind the ratification of 2009 FAO Port State Measures Agreement in 2016 by Indonesia.

Chapter V : This chapter provides the conclusion of this undergraduate thesis.