

CHAPTER III

LAW ENFORCEMENT AGAINST IUU FISHING IN INDONESIA DURING JOKO WIDODO ERA

According to Ministry of Maritime Affairs and Fisheries, there are 8 stages of action that were taken to prevent and combat IUU fishing in Indonesia:

A. Moratorium of ex-foreign fishing vessel

The very first step of the set of law enforcement to combat IUU fishing is legal due diligence. It is an activity that conducted to intensively investigate the suspected ex- foreign vessel that crossing the Indonesian boundary and breaking the law. This is done before the vessel was sentenced with the legal law by the court of Indonesia. In 2015, there were about 1.132 foreign vessels were caught.

After that, if the vessels were proved breaking the law, the next step is taking legal consequence analysis. This step was done separately for each company and vessel. Each of the suspected company and vessel will sentenced with different kind of indictment. The bigger the loss that caused by IUU fishing activities done by a company or vessel, the more severe the punishment would be given.

All of the activities related to this moratorium were based on the Minister's Regulation 56/2014.

B. Ban on transshipment

Based on the Regulation of Minister 56/27, the second step is banning the transshipment. It includes developing, monitoring and/or implementing the recommendations from the analysis and evolution that done before.

States should take measures consistent with international law in relation to managing vessels without nationality on the high seas involved in IUU fishing.

Indonesia has prevented or bans the entry of vessels without nationality into Indonesian waters that were going to utilize its ports or obtain fishing license to conduct fishing activities in Indonesian waters. Based on Article 166 paragraph (1) of Act Number 17 of 2008 on Seafaring Activities, every vessel that sails on the Indonesian territorial waters shall be able to clearly indicate the identity of the vessel. (Ministry of Marine Affairs and Fisheries of Republic Indonesia Decree Number KEP. 50/MEN/2012, 2012, p. 25)

The ban policy was issued on January 9, 2015, and then postponed until September following strong protests from various regions in the country. Various business players in the fisheries sector continued to protest the policy because it will effect to the economic in Indonesia as well but in other way it can prevent foreign vessel to coming in Indonesia water. The circular explained each fishing and fish transport vessels to operate should put an independent professional observer to prevent illegal fishing practices through transshipment practice to abroad.

C. Ban on using seine net and trawl

Based on the Minister's Regulation 02/2015 the third step is ban on using seine net and trawl. Seine nets and trawlers were banned because they "caused fish stocks in the Indonesian fishery management zone to decline and threatened conservation of stocks and to limit or search the foreign vessel in Indonesia water because it is easy to find the illegal vessel from their tools in catching fishes.

The circulation letter stated trawl and seine net usage ban are fully banned in all Indonesian waters on January 1st 2016. Fishing permit (SIPI) with trawl and seine net usage issued before the implementation of Ministerial Regulation No. 2/2015 still prevails until it expires.

The expired SIPI of fishing vessels constructed domestically with trawl and seine net can still be extended until December 31st 2015. It aims to give an opportunity for vessel owners to replace their fishing tools.

D. Establishment of Task Force to Prevent and Combat IUU fishing

The government has stepped up its maritime law enforcement by preparing a presidential decree that will lay the groundwork for the establishment of a new task force to combat illegal fishing, and also established by the Minister of Fisheries and Marine Affairs according to a government official. This is the forth step of Indonesia combating on IUU fishing.

a. Task Force on Eradication of IUU Fishing established by the President.

1. Strengthen the enforcement capacity and effectiveness to combat IUU fishing by establishing a joint enforcement task force which includes KKP, Navy, Police, Coast Guards, and Public Prosecutors.

2. Utilize the existing forces including warship, airborne, and other appropriate technology for surveillance and enforcement purposes.

3. Regular patrol (including airborne surveillance) conducted by joint task force to detect IUU fishing activities.

b. Task Force on Prevention and Eradication of IUU Fishing which established by the Minister of Fisheries and Marine Affairs.

1. Conduct analysis and evaluation of 1.132 ex-foreign vessels (legal due diligence) and develop legal consequence analysis (per company and vessel).

2. Develop, monitor and / or implement recommendations resulted from analysis and evaluation.

3. Conduct fisheries license governance reform (national and regional level).

4. Monitor enforcement practices on IUU Fishing and provide technical assistance for enforcement officers on cases basis.

5. Strengthen coordination among enforcement agencies by developing online case tracking system on IUU fishing. (Santosa, 2014-2015)

E. Compliance Audit of 1,132 ex-foreign vessels.

In this step Indonesian government will recheck the foreign about 1,132 of vessel after Indonesia published the various law enforcement and the punishments as a warning to the illegal vessel for not coming to Indonesia's water again.

A. Mandated

By: 1. Indonesia's Minister Regulation No. 56/PERMEN--- KP/2014 on the Moratorium of Ex-Foreign Fishing Vessel.

2. Indonesia's Minister Decree No. 26B/KEPMEN-- KP/2015 on the Analysis and Evaluation of Ex-Foreign Fishing Vessel.

B. Conducted in 7 months (March – October 2015)

C. Total 1,132 vessels and 187 vessel owners distributed in 33 base ports.

F. Sink captured IUU fishing vessels.

After through 4 steps that Indonesia compromise to the neighbor that enter to Indonesia water but they still not obey the Indonesia rules so, Indonesia has sanctions on the IUU fishing offenders, according to Joko Widodo new policy which sink the IUU fishing in Indonesia water.

Article 69 of Law No. 45/2009 on fisheries stipulates that the coast guard can sink foreign vessels operating illegally in the country's territorial waters based on sufficient preliminary evidence. Article 76A: “An object and/or tool used for and/or resulted from fisheries crime may be confiscated for the state or destroyed subsequent to the approval of the chief of a district court.”

On the UNCLOS (ratified by Law 17/1985) Article 92: “A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality”. (Afrida, 2015)

Number of vessel sunk by MMAF, Navy, and police in October 2014 till October 2015.

NO	FLAG	TOTAL
1	Philippine	34
2	Vietnam	35
3	Thailand	21
6	Malaysia	6
5	Indonesia 4	4
6	China	1
7	Papua New Guinea	2
	TOTAL	103

Indonesia just shown the most determined crackdown it has sunk 174 foreign boats to date on the new policy of President Joko Widodo has proved that Indonesia cannot be mocking or making fun because there are really serious to this problem.

G. Strengthening law enforcement

- A. Enhance the coordination with navy, water police, coast guards, tax administration office, and Financial Intelligence Unit
- B. Application of corporate criminal liability
- C. Imposing administrative sanctions (based on the findings in the audit compliance)

H. Roadmap to Improve Governance of Fisheries Business.

For the last step of the law enforcement to prevent and control the IUU fishing in Indonesia water which is assurance of transparency, participatory, and accountability of related policies is included in the roadmap to improve fisheries business governance led by Minister of Marine Affairs and Fisheries. The roadmap consists of 5 issues:

1. Improvement of vessel registration system;
Double Registration
 - a. 343 vessels are indicated double registered (China and Indonesia).
 - b. 11 vessels are indicated double registered (PNG and Indonesia).
 - c. 8 vessels are indicated double registered (Thailand and Indonesia).

2. Improvement of fishery license governance. Fish catch licenses are still issued despite the fact that it is inconsistent with the use of prohibited fishing gear(s) registered under the license and also investigate on landing port request by the vessel owner there are vessels which land their catch at landing ports other than the ports stated in the licenses.

3. Improvement of surveillance system by Utilize the existing forces including warship, airborne, and other appropriate technology for surveillance and enforcement purposes.

4. Inclusion of human rights traceability in addition to food safety and IUU fishing traceability because it always has illegal labor on the ship And found 365 persons in Ambon and 682 persons in Benjina became victims of trafficking and modern slavery, they are worked for more than 18-22 hours per day in 7 days a week with only 2-4 hours of recess time, while they are Physical and mental abuse.

5. Strengthening cooperation in national and international level as the characteristic of the international regimes is to create the cooperation between states.

Indonesia already has law enforcement in prevent and against the IUU fishing in a long time ago, but about loss a lot of their natural resources and the cost of nation they cannot wait and patience anymore till use the decisive step to fight against the illegal fishing in Indonesia.