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THE PRESERVATION OF MARINE FISHERIES RESOURCES WITHIN ASEAN NATIONS' EEZ

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Cover Page Footnote

Mochtar Kusumaatmadja, Protection and Preservation of Marine Environment from an International, Regional, and National Law Point of View, Sinar Grafika and Center for Archipelago Insights Studies (Pusat Studi Wawasan Nusantara), Jakarta, 1992, essence of the book Ibid. Adwani, Journal of Protection and Preservation of Marine Fish Resources in the Exclusive Economic Zone Between ASEAN Countries, Kanun, Aceh, 2010, page, 475 M. Daud Silalahi, Indonesian Maritime Law Regulations and Regional Implications, Pustaka Sinar Harapan, Jakarta, 1992, page 199 Mita Wahyuni, et al., 2007 Fish Eating Program: as a Strategy for Building Quality Children of the Nation, Jakarta: Department of Maritime Affairs and Fisheries, page 23. FAO (2009), The State of World Fisheries and Aquaculture 2008, Information Division, Rome: FAO. See also: Mike Stones, 2011, Fish Consumption hit all time high: FAO report, <http://www.foodnavigator-usa.com/Financial-Industry/Fish-consumption-hits-all-time-high-FAO-report>, accessed 27 May 2023, 5.52 WIB Ida Kurnia, National and International Aspects of Utilizing Fisheries Surplus in Indonesia's Exclusive Economic Zone, Sinar Grafika, Jakarta, 2018, page 141. NN, Fish as Food: Aquaculture's Contribution, Ecological and economic impacts and contributions of fish farming and capture fisheries, Doi:10.1093/embo-reports/kve236 accessed 26 May 2023, 17.00 WIB This is the background that triggers the formation of UNFSA1995 Seremaia Tuqiri, Ensuring The Sustainability of Pacific Tuna: The United Nations Fish Stocks Agreement (UNFSA), http://awsassets.panda.org/downloads/unfsa_revised.pdf, accessed 16 July 2023, 09.00 WIB Ibid. NN, Data Check: Is it true that 488 illegal fishing boats have been sunk?, <https://databoks.katadata.co.id/datapublish/2019/02/18/cek-data-488-kapal-ilegal-sudah-ditenggelamkan>, accessed 26 May 2023, 19.00 WIB. ASEAN MINISTERIAL UNDERSTANDING ON FISHERIES COOPERATION <https://www.asean.org/wp-content/uploads/images/2012/Economic/AMAF/Agreements/ASEAN%20Ministerial%20Understanding%20On%20Fisheries%20Cooperation.pdf> accessed 26 May 2023, 20.00 WIB. Adopting conservation measures that reflect concern for the marine environment and biodiversity to integrate preventive measures and ecosystem protection. Sudikno Mertokusumo, The Discovery of Law, Liberty, Yogyakarta, 2004, page 29 Statute approach mentioned here is to refer the legislative documents of applicable law from Indonesian Law and International Law Lucitania Rizky, et al, The Complexity of The Illegal Fishing Regime in Southeast Asia Case Study: Illegal Lobster Seed Fishing in ASEAN, International Journal of Southeast Asian Studies (IJSAS), Vol. 1, No.1 (2021):17, https://www.researchgate.net/publication/349883781_The_Complexity_of_The_Illegal_Fishing_Regime_in_Southeast_Asia_Case_Study_Illegal_Lobster_Seed_Fishing, accessed 27 May 2023, 09.17 WIB Ibid. Faisal Adhiatma, Effectiveness of (RPOA) Regional Plan of Action in Combating IUU Fishing Case Study: Illegal Smuggling of Indonesian Lobster Seeds to Vietnam, Journal of International Vol.5, No.4, (2019) : 781, <http://download.garuda.kemdikbud.go.id/article.php?article=1436118&val=4718&title=Efektivitas%20RPOA%20Regional%20Plan%20of%20Action%20Dalam%20Per> accessed 27 May 2023, 13.04 WIB Ibid. Irene Inriana, Without Indonesian fish, Thailand's seafood exports are in free fall, <https://www.cnnindonesia.com/ekonomi/20151216125914-92-98589/tanpa-ikan-indonesia-ekspor-hasil-laut-thailand-terjun-bebas> accessed 27 May 2023, 13.49 WIB Faisal Adhiatma, Op.cit., page 785 Ibid. Ibid., page 786 Ida Kurnia, Op.cit., page. 49 Ibid. Ibid., page 60 Ibid., page 64 Melda Kamil Ariadno, Utilization of Marine Fisheries of Indonesian EEZ, <https://law.ui.ac.id/melda-kamil-ariadno-kompas-pemanfaatan-sumber-daya-ikan-zeei/>, accessed 26 May 2023, 20.45 WIB Dr. Ida Kurnia, S.H., M.H. , Loc.cit. FAO, Code of Conduct for Responsible Fisheries, (Rome: Food and Agriculture Organization of The United Nations, 1995), Article 6. Loc.cit. Indonesia through Law Number 21 of 2009 has ratified Agreement For The Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks, LNRI No. 95, 2009, TLNRI No. 5024. Yustinus Pedo,

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THE PRESERVATION OF MARINE FISHERIES RESOURCES WITHIN ASEAN NATIONS' EEZ

IDA KURNIA*

Abstract

The preservation of marine fisheries resources within ASEAN nations' Exclusive Economic Zone (EEZ) is an urgent and pressing challenge requiring collaborative efforts from all ASEAN nations. Challenges such as illegal fishing, climate change, and lack of coordination between ASEAN nations may cause damage to the marine biota food chain, especially marine fisheries in the Southeast Asia region. To solve this conundrum, collaboration between ASEAN nations poses as the key solution. The research method used in this study is a normative juridical approach by analyzing primary legal materials such as International Agreements and other international laws & sources. Further analysis was also conducted from secondary legal references such as international journals and books. It should be noted that the preservation of marine fisheries within the ASEAN region has always been a topic that needs to be continuously improved. The urgency to escalate the preservation efforts can be seen in various programs conducted through Ministerial Understanding on Fisheries Cooperation in 1983, as a form of understanding and cooperation between ASEAN nations for the development, management, and conservation of marine fisheries resources within the ASEAN EEZ region. Moreover, ASEAN also carried out collaborative efforts for marine fisheries conservation through the ASEAN Policy of the General Fisheries Policy Feasibility Study (AGFP). AGFP regulates the ASEAN marine fisheries sector and encompasses 15 focus areas, including marine fisheries resources management, countermeasures against Illegal, Unreported and Unregulated (IUU) Fishing, research on marine fisheries, food security, international trade, animal health, conservation of habitat, and management of marine debris and garbage. The policy was ultimately established by the ASEAN nations members as a Working Unit Forum named The ASEAN Sectoral Working Group on Fisheries (ASWGF_i) to realize the vision and mission of AGFP. Efforts to overcome this challenge are laid out by committing to preserve marine fisheries resources in ASEAN nation's regions, focusing on protecting marine biodiversity – especially marine fisheries resources, and encouraging economic and social sustainability, while ensuring food availability and security for the future.

Keywords:

ASEAN, Preservation, Marine Fisheries, Challenges, EEZ

Abstrak

Pelestarian sumber daya perikanan laut di Zona Ekonomi Eksklusif (ZEE) negara-negara ASEAN merupakan tantangan yang mendesak dan mendesak yang memerlukan upaya kolaboratif dari seluruh negara ASEAN. Tantangan seperti penangkapan ikan ilegal, perubahan iklim, dan kurangnya koordinasi antar negara ASEAN dapat menyebabkan rusaknya rantai makanan biota laut, khususnya perikanan laut di kawasan Asia Tenggara. Untuk mengatasi teka-teki ini, kolaborasi antar negara ASEAN menjadi solusi utama. Metode penelitian yang digunakan dalam penelitian ini adalah pendekatan yuridis normatif dengan menganalisis bahan-bahan hukum primer seperti Perjanjian Internasional serta hukum & sumber internasional lainnya. Analisis lebih lanjut juga dilakukan dari bahan hukum sekunder seperti jurnal dan buku internasional. Perlu diketahui bahwa pelestarian perikanan laut di kawasan ASEAN selalu menjadi topik yang perlu terus ditingkatkan. Urgensi peningkatan upaya pelestarian dapat dilihat dari berbagai program yang dilakukan melalui Ministerial Understanding on Fisheries Cooperation pada tahun 1983, sebagai wujud kesepahaman dan kerja sama antar negara ASEAN dalam pengembangan, pengelolaan, dan konservasi sumber daya perikanan laut di kawasan ZEE ASEAN. Selain itu, ASEAN juga melakukan upaya kolaborasi konservasi perikanan laut melalui Kebijakan ASEAN General Fisheries Policy Feasibility Study (AGFP). AGFP

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mengatur sektor perikanan laut ASEAN dan mencakup 15 bidang fokus, termasuk pengelolaan sumber daya perikanan laut, penanggulangan Illegal, Unreported and Unregulated (IUU) Fishing, penelitian perikanan laut, ketahanan pangan, perdagangan internasional, kesehatan hewan, konservasi habitat, dan pengelolaan sampah dan sampah laut. Kebijakan tersebut pada akhirnya ditetapkan oleh negara-negara anggota ASEAN sebagai Forum Unit Kerja yang diberi nama The ASEAN Sectoral Working Group on Fisheries (ASWGF) untuk mewujudkan visi dan misi AGFP. Upaya untuk mengatasi tantangan ini diwujudkan dengan berkomitmen untuk melestarikan sumber daya perikanan laut di kawasan negara ASEAN, dengan fokus pada perlindungan keanekaragaman hayati laut – khususnya sumber daya perikanan laut, mendorong keberlanjutan ekonomi dan sosial, serta menjamin ketersediaan dan keamanan pangan untuk masa depan.

Kata Kunci :

ASEAN, Pelestarian, Perikanan Laut, Tantangan, ZEE

I. INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) is an international organization that the Republic of Indonesia participates in, founded based on regional similarities in Southeast Asia. Geographically, ASEAN nations are mostly surrounded by sea areas reaching up to 5.060.100 km² and land areas reaching 4.817.000 km². ASEAN region has a latitude of 28° N – 11° S dan 93° E - 141° E, causing ASEAN nations to have tropical climates as they are located near the equator. Furthermore, the ASEAN nation's area is surrounded by two oceans, which are the Indian and Pacific Oceans. This resulted directly in the marine fisheries biodiversity and marine biota within the ASEAN nation's area. Therefore, there is an incentive for the ASEAN nations to support their country's economy by utilizing the abundant marine fisheries resources available in the territorial waters of the ASEAN nations' area.

In detail the geographic location of ASEAN states is as follows:



Source: Map of 10 ASEAN states Photo: Ministry of Education and Culture

In detail, the geographic location of ASEAN is as follows:

- a. To the north, it borders mainland China and the China Sea.
- b. To the south, it borders Timor Leste, the Australian continent, and the Indian Ocean.
- c. To the west, it borders India, Bangladesh, and the Pacific Ocean.
- d. To the east, it borders Papua New Guinea and the Pacific Ocean.

In ASEAN itself there are two archipelagic states: Indonesia and Philippines. In exploring and exploiting fish resources in ASEAN states, the two countries have privileges based on the provisions of the Exclusive Economic Zone (EEZ), which in its regulation gives them sovereign rights as coastal states (archipelagic states) as wide as 200 nautical miles from the baseline. With the existence of the EEZ, the range of exploitation and exploration of marine biological resources becomes wider. Both states also have an obligation to set catch limits on the number of fish, determine fish catches that are conserved, and regulate policies on good and correct fishing procedures.¹

One unique geographical aspect of ASEAN states is the presence of mangrove forests traversing the coastlines. This turned the coastline into a productive area with marine fisheries resources. National economic potential from marine fisheries must be utilized optimally by maintaining its sustainability and paying attention to the existing carrying capacity of the environment. This means that the interests of the citizens are prioritized as per Article 33 Paragraph 3 of the 1945 Constitution: Earth and water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Thus, the main objective is for the citizen's welfare. Furthermore, Article 33 Paragraph 4 of the 1945 Constitution states that the national economy is organized based on economic democracy with the principles of togetherness, fairness in efficiency, sustainability, environmental awareness, and independence, as well as maintaining the balance of progress and the unity of the national economy. Based on this principle, by optimizing the utilization of marine fisheries resources, the country could receive foreign exchange, create various job opportunities, and preserve marine fisheries resources and the environment.

However, it should be noted that efforts to preserve marine fisheries resources within EEZ among ASEAN nations are not yet at the desired level. This is partially due to more than 7% of the population living in the coastal beach area, which caused a high level of exploitation and damage to the marine environment.² Furthermore, many ships, both from Indonesia and other ASEAN states, conduct fishing operations without considering the protection and preservation of marine fisheries resources in the EEZ. In fact, many foreign fishing vessels illegally fish in Indonesia's EEZ, ignoring the importance of conserving marine fisheries resources. This results in indifference to preservation efforts related to marine fisheries resources, which should have been prioritized by these fishing vessels.³ Furthermore, excessive fishing by fishermen from various states in the EEZ poses a major problem against the efforts to preserve

1 Mochtar Kusumaatmadja, *Protection and Preservation of Marine Environment from an International, Regional, and National Law Point of View*, Sinar Grafika and Center for Archipelago Insights Studies (Pusat Studi Wawasan Nusantara), Jakarta, 1992, essence of the book

2 Ibid.

3 Adwani, *Journal of Protection and Preservation of Marine Fish Resources in the Exclusive Economic Zone Between ASEAN Countries*, Kanun, Aceh, 2010, page, 475

marine fisheries resources in ASEAN waters. This destroys habitats and threatens the sustainability and diversity of marine biological resources, as well as causing pollution. This shows why efforts to conserve fisheries resources in the EEZ usually involve transnational cooperation between states. There is a need for marine environmental legal regulations that cover various interests and aspects of people's lives.⁴ Arranging the management and utilization of fish resources wisely and judiciously is a necessity because the arrangement of a country's fisheries area affects the condition of fish resources in other water areas. It means it is necessary to use fish resources optimally by paying attention to the conservation aspect to manage and utilize them.

This condition is in line with the increasing demand for fish by the world community. The causal factors include:

- a. The increase in population and income of the world community.
- b. The increase in quality of life is followed by a shift in food composition to healthy food characterized by low cholesterol content (red meat to white meat pattern), high omega-3 polyunsaturated fatty acids (vital for health and brain development), and relatively higher quantity and protein quality (completeness of amino acid composition and ease of digestion) compared to other food sources of protein.
- c. The world community is increasingly busy (people on the run), so they need healthy and ready-to-eat meals.
- d. The impact of globalization will cause human activities to exceed national boundaries, so it is also required to provide food that is accepted internationally because it is an alternative food commodity that meets these requirements.
- e. The fear of contracting foot and mouth disease, mad cow, anthrax, and bird flu due to consumption of livestock and poultry meat (animal origin) reinforces that the best thing to do is eat fish.⁵

In line with the high level of community demand for fish protein and increased production to balance will result in a scarcity of fish resources. It is supported by the FAO report as regards fluctuations in marine fishing production figures between 1990 and 2006. In 2000 production reached its highest point (reaching 86.8 million tons) and the following year showed a downward trend in production figures and continued to decline. Until 2006, production only reached 81.9 million tons.⁶

In keeping with the objective of managing fishing operations for sustainable marine fisheries resources development, the 1992 Rio de Janeiro High-Level Convention encouraged the Food and Agriculture Organization (FAO) to form guidelines or regulations for fish-producing states, known as the 1995 Code of Conduct for

4 M. Daud Silalahi, *Indonesian Maritime Law Regulations and Regional Implications*, Pustaka Sinar Harapan, Jakarta, 1992, page 199

5 Mita Wahyuni, et al., *2007 Fish Eating Program: as a Strategy for Building Quality Children of the Nation*, Jakarta: Department of Maritime Affairs and Fisheries, page 23.

6 FAO (2009), *The State of World Fisheries and Aquaculture 2008*, Information Division, Rome: FAO. See also: Mike Stones, 2011, *Fish Consumption hit all-time high: FAO report*, <http://www.foodnavigator-usa.com/Financial-Industry/Fish-consumption-hits-all-time-high-FAO-report>, accessed 27 May 2023, 5.52 WIB

Responsible Fisheries (CCRF).⁷

FAO estimates that in 2006 there were 2.1 million motorized fishing vessels, and 70% of them were concentrated in Asia. According to FAO or the World Food and Agriculture Organization, marine fishery catches are estimated to have increased fivefold during the 1950-1990 period. However, fishing efforts have not kept pace with increasing demand, and many marine fisheries have exceeded sustainable catch limits. Between 1990-1997, fish consumption increased 31%, while catches only increased 9%. As a result, pressure on commercial fisheries is increasing. About half of marine fisheries are estimated to be overexploited, and 70% of them require urgent management. In 2002, the total marine fishery catch reached 84.5 million tons. After reaching a peak of 80 million tons in the 1980s, the total world fisheries catch fluctuated between 77-86 million tons, with the highest amount in 2000 (86.8 million tons) and decreasing to 81.5 million tons in 2003. According to FAO, cases of overfishing at the international level are increasingly widespread, with 17% overexploited, 52% fully exploited, 7% depleted, 1% not yet exploited, 20% moderately exploited, and 1% in the slow recovery stage.⁸

Based on the data above, the exploitation of marine fisheries resources has reached a very concerning level and is likely to cause significant depletion of marine fisheries stocks within the near future. International regulations such as the United Nations Convention on the Law of the Sea (UNCLOS) 1982 regarding the conservation and protection of marine fisheries resources, had been established. However, the United Nations made a more specific international agreement as a response to the crisis of depleting marine fisheries stocks, called the United Nations Fish Stocks Agreement (UNFSA) in 1995⁹ and came into effect in the year 2001. This agreement was initiated as a response to the marine fisheries management crisis which involved various types of transboundary marine fisheries resources. Even though the main threat is caused by overfishing and the prevalence of illegal, unreported, and unregulated fishing (IUU), this means that the root of the problem of this crisis is related to inconsistencies in UNCLOS 1982, so regulation is needed internationally in order to overcome the fish stock crisis.

UNFSA 1995 carried the principle of UNCLOS 1982, which states that countries must collaborate to ensure the conservation of marine fisheries, within the area or outside of EEZ.¹⁰ The aim of UNFSA 1995 is explained in Article 2, namely: to ensure the long-term conservation and sustainable use of limited and long-migrating fish stocks through the effective implementation of the relevant provisions of the convention. Through this agreement, the states involved are committed to collaborating and working together in maintaining marine fisheries resources so that they remain sustainable and do not experience over-exploitation. This agreement also regulates the operation of fishing and catches, protection of fish habitats, monitoring and control of fishing activities, as well as resolving disputes related to marine fisheries

7 Ida Kurnia, *National and International Aspects of Utilizing Fisheries Surplus in Indonesia's Exclusive Economic Zone*, Sinar Grafika, Jakarta, 2018, page 141.

8 NN, *Fish as Food: Aquaculture's Contribution, Ecological and economic impacts and contributions of fish farming and capture fisheries*, Doi:10.1093/embo-reports/kve236 accessed 26 May 2023, 17.00 WIB

9 This is the background that triggered the formation of UNFSA1995

10 Seremaia Tuqiri, *Ensuring The Sustainability of Pacific Tuna: The United Nations Fish Stocks Agreement (UNFSA)*, http://awsassets.panda.org/downloads/unfsa_revised.pdf, accessed 16 July 2023, 09.00 WIB

resources.¹¹

Aside from excessive fishing, the rise in cases of illegal fishing in ASEAN EEZ waters is also a serious concern. Illegal fishing can cause damage to the marine biota food chain, which may cause a shortage of marine fisheries resources. Indonesia, as an archipelagic state in Southeast Asia with substantially large territorial waters, is often the main target for fishermen from neighboring states to carry out illegal fishing. Based on data published in 2014-2018, there were 488 illegal fishing vessels, of which 276 vessels came from Vietnam, 90 vessels from the Philippines, 50 vessels from Thailand, 41 vessels from Malaysia, and 26 vessels from Indonesia.¹² Illegal Fishing has been opposed due to the significant damage to the nation's economy and directly affecting the livelihood of a significantly large group of local fishermen. This is a concern for ASEAN states because the governance and regulation of fishing activities in the EEZ cannot be separated from the management of fisheries on the high seas. On the other hand, high seas management refers to the governance and regulation of fishing activities in the country's national jurisdiction.

Regarding efforts to protect marine fisheries resources in the ASEAN sea area, which includes passages between ASEAN states, cooperation is required which must involve more than one country, or transnational in nature. This must be done partially due to the problems previously elaborated, namely excessive fishing by fishermen from various ASEAN states, which damages the marine ecosystem, threatening the various biological riches in the region of ASEAN coastal states. In fact, a memorandum of understanding has been formed between ASEAN states which basically recognizes the EEZ of ASEAN member states, namely the ASEAN Ministerial Understanding on Fisheries Cooperation 1983.¹³ Within, it had been declared that cooperation in the fisheries sector in the form of developing fisheries in the ASEAN region and carrying out management and conservation of fisheries resources in the ASEAN EEZ region would be carried out through close cooperation between ASEAN states. Apart from that, this memorandum of understanding also mentioned plans for fish cultivation in order to increase fisheries production in the ASEAN EEZ. This memorandum of understanding has been signed by the 5 (five) states that form ASEAN, namely Indonesia, Thailand, Singapore, Malaysia, and the Philippines.

Based on the background previously elaborated above, the problem statements can be formulated as follows: (1) How do ASEAN states act and make efforts to preserve marine fisheries resources in the EEZ of ASEAN nations? (2) What are the challenges that ASEAN states face in preserving marine fisheries resources in the EEZ of ASEAN nations?

Based on the Problem Statements above, the Research Objectives are as follows: To determine and comprehensively assess the efforts undertaken by ASEAN nations

¹¹ Ibid.

¹² NN, Data Check: Is it true that 488 illegal fishing boats have been sunk?, <https://databoks.katadata.co.id/datapublish/2019/02/18/cek-data-488-kapal-ilegal-sudah-ditenggelamkan>, accessed 26 May 2023, 19.00 WIB.

¹³ ASEAN MINISTERIAL UNDERSTANDING ON FISHERIES COOPERATION <https://www.asean.org/wp-content/uploads/images/2012/Economic/AMAF/Agreements/ASEAN%20Ministerial%20Understanding%20on%20Fisheries%20Cooperation.pdf> accessed 26 May 2023, 20.00 WIB.

Adopting conservation measures that reflect concern for the marine environment and biodiversity to integrate preventive measures and ecosystem protection.

in conserving marine fisheries within ASEAN EEZ. To identify and understand the challenges faced by ASEAN nations in preserving marine fisheries resources within the ASEAN EEZ region. This research utilizes a normative legal research approach. Normative legal research in itself is a research method of analyzing legal norms or principles, legal rules, legal systems, and concrete legal regulations.¹⁴ This research utilizes a statute approach¹⁵ and a conceptual approach, as well as utilizing secondary sources consisting of primary, secondary, and tertiary legal materials.

II. DISCUSSION

FISHING MARINE FISHERIES RESOURCES WITHIN ASEAN EEZ

Within a much larger Asia Pacific region, there are 3,4 up to 8,1 million tons of fish being caught by Illegal, Unreported, Unregulated (IUU) fishing operations each year. A similar situation can be seen in the ASEAN region. ASEAN has a diverse marine ecosystem and a significantly large coastal and sea area. Illegal aspects related to marine fisheries resources, therefore, pose a serious security problem within this region. IUU fishing operations increase and directly damage the economy of the affected region. Furthermore, illegal fishing threatens the marine ecosystem on a global scale. According to FAO, in 2018 around 52% of marine fisheries stocks had been exploited fully, 17% had been exploited excessively, and 6% faced significant depletion.¹⁶ In Southeast Asia, illegal fishing activities keep on rising, both from local fishermen and foreign fishing vessels with larger operations. Breach of regulations includes the operation of fishing vessels within another nation's territorial waters without a permit, fishing operations utilizing illegal methods or equipment, fishing of protected species such as lobster seeds, and forgery of documents, including catch documentation.¹⁷

For 4 years ranging from 2014-2018, it can be seen that not only Indonesia, but other ASEAN states such as Vietnam, Kamboja, Thailand, Filipina, and Malaysia, are affected and involved in IUU Fishing.¹⁸ The Indonesian Government managed to sink a total of 363 foreign vessels involved in IUU Fishing in Indonesian territorial waters during the period of 2014-2018:¹⁹

14 Sudikno Mertokusumo, *The Discovery of Law, Liberty*, Yogyakarta, 2004, page 29

15 The statute approach mentioned here refers to the legislative documents of applicable law from Indonesian Law and International Law

16 Lucitania Rizky, et al, *The Complexity of The Illegal Fishing Regime in Southeast Asia Case Study: Illegal Lobster Seed Fishing in ASEAN*, International Journal of Southeast Asian Studies (IJSAS), Vol. 1, No.1 (2021):17, https://www.researchgate.net/publication/349883781_The_Complexity_of_The_Illegal_Fishing_Regime_in_Southeast_Asia_Case_Study_Illegal_Lobster_Seed_Fishing_in_ASEAN, accessed 27 May 2023, 09.17 WIB

17 Ibid.

18 Faisal Adhiatma, *Effectiveness of (RPOA) Regional Plan of Action in Combating IUU Fishing Case Study: Illegal Smuggling of Indonesian Lobster Seeds to Vietnam*, Journal of International Vol.5, No.4, (2019): 781, <http://download.garuda.kemdikbud.go.id/article.php?article=1436118&val=4718&title=Efektivitas%20RPOA%20Regional%20Plan%20of%20Action%20Dalam%20Penanggulangan%20IUU%20Fishing%20Studi%20Kasus%20Penyulundupan%20Illegal%20Benih%20Lobster%20Indonesia%20ke%20Vietnam> accessed 27 May 2023, 13.04 WIB

19 Ibid.

COUNTRY	NUMBER OF SHIPS SUNK
Indonesia	19
Vietnam	188
Cambodia	2
Malaysia	52
Thailand	22
Philippines	77

Source : <http://download.garuda.kemdikbud.go.id/article.php?article=1436118&val=4718&title=Efektivitas%20RPOA%20Regional%20Plan%20of%20Action%20Dalam%20Penanggulangan%20IUU%20Fishing%20Studi%20Kasus%20Penyulundupan%20Illegal%20Benih%20Lobster%20Indonesia%20ke%20Vietnam>

Based on the information above, it cannot be denied that some marine fisheries products from Thailand, one of the largest exporters of marine fisheries in the world, are sourced from illegal fishing activities within Indonesia’s territorial waters. On average, fisheries sectors contributed up to 1,6% of Thailand’s Gross Domestic Product (GDP) but faced a significant reduction to -3.1% in the third quarter of 2015.²⁰

The Philippines is among the top five states in Southeast Asia involved in IUU fishing activities, especially in Indonesian waters. According to the Minister of Maritime Affairs of the Republic of Indonesia (2014-2018 period) Susi Pudjiastuti, the Philippines was involved in IUU fishing activities in Indonesian waters, which resulted in declining fisheries stocks in the region south of The Philippines.²¹

In 2015, as many as 33 fishermen from Cambodia were involved in fishing in Indonesian waters, especially in the Riau Islands.²² Furthermore, Malaysia is a state involved in illegal fishing in Indonesian waters. A Malaysian-flagged ship was seized in 2015 with a capacity of 1 ton.²³ The ship used trawling equipment without permission from the Indonesian government and carried out fishing in the Malacca Strait area which is Indonesia’s EEZ.²⁴ Malaysia often carries out illegal fishing in Indonesian waters because fisheries resources in Malaysian waters have decreased, while the need for fisheries in the daily consumption of Malaysian people reaches 22%, which is the highest percentage compared to rice (9%), meat (14%), fruit (6%), and vegetables (11%). These data show that the IUU fishing problem in the ASEAN region is a problem that is difficult to resolve.

²⁰ Irene Inriana, Without Indonesian fish, Thailand’s seafood exports are in free fall, <https://www.cnnindonesia.com/ekonomi/20151216125914-92-98589/tanpa-ikan-indonesia-ekspor-hasil-laut-thailand-terjun-bebas> accessed 27 May 2023, 13.49 WIB

²¹ Faisal Adhiatma, *Op.cit.*, page 785

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*, page 786

EFFORTS TO PRESERVE MARINE FISHERIES RESOURCES IN ASEAN EEZ, BY ASEAN NATIONS

The conservation of marine fisheries resources in ASEAN nation's EEZ should be a collective concern for all parties and should be taken seriously. Through sustainable marine fisheries resources conservation measures, the fishery resources within the EEZ can be preserved and optimally utilized for the well-being of the communities and the sustainability of the marine environment.

Looking back at the history, the formation of UNCLOS 1982 was the result of a relatively lengthy process that began with previous conventions, namely the Convention on Territorial Sea and Contiguous Zone, the Convention on the High Seas, the Convention on the Continental Shelf, and the Convention on Fishing and Conservation of the Living Resources of the High Seas in 1958, also known as the 1958 Geneva Convention. These four conventions were the outcomes of UNCLOS I. Within the Convention on Fishing and Conservation of Living Resources, the principle of freedom to fish was restricted to consider the interests of coastal states in terms of protecting marine fisheries resources and the conservation of living resources. This was a response to the development of modern fishing technologies that could deplete marine fisheries resources, as well as damage the marine environment, disregarding the fairness of resource utilization. Steps to avoid lopsided advantages gained only by technologically advanced nations require international cooperation with the goal of taking into account the interests of all relevant states.²⁵ Limitations as elaborated in Article 1, Verse 1 of UNCLOS 1958, include agreements between states, coastal countries' rights and interests, as well as provisions for marine fisheries resources protection in that convention.²⁶

The principle of freedom to fish established in UNCLOS 1958 set several limitations, including restrictions related to the utilization of marine fisheries resources aimed at preserving fish populations while considering conservation aspects, with the responsibility of regulatory and policy setting – related to freedom to fish given to the coastal states.²⁷ With UNCLOS 1958 and the aforementioned limitations in place, the sustainable utilization of living resources can continue, as stipulated in UNCLOS 1982.

UNCLOS 1982 requires coastal states to conduct surveys and research before regulating the use of fish resources in their EEZ. This involves determining the Total Allowable Catch (TAC) and the coastal state's fishing capacity.²⁸ The right to utilize fish resources in the EEZ is balanced with the responsibility to manage and conserve these resources. UNCLOS 1982 also instructed each state to set Maximum Sustainable Yield of production levels (MSY) and Total Allowable Catch (TAC).²⁹ This means that the coastal state determines the amount of catch allowed and determines the marine fisheries resource potential available for the coastal state, then the coastal state could give the surplus to other states. This must also be stated in an agreement and with the requirements specified in the Convention. UNCLOS 1982 regulates the

²⁵ Ida Kurnia, *Op.cit.*, page. 49

²⁶ *Ibid.*

²⁷ *Ibid.*, page 60

²⁸ *Ibid.*, page 64

²⁹ Melda Kamil Ariadno, *Utilization of Marine Fisheries of Indonesian EEZ*, <https://law.ui.ac.id/melda-kamil-ariadno-kompas-pemanfaatan-sumber-hayati-ikan-zeel/>, accessed 26 May 2023, 20.45 WIB

participation of other states in fisheries in the EEZ of a coastal state by considering aspects of conservation and optimum utilization. Article 61 of the Conservation of the Living Resources UNCLOS 1982 requires coastal states to determine the permitted catch in their exclusive economic zones and protect living resources with appropriate conservation measures. The main goal is to ensure that biological resources are not threatened by overexploitation and to restore sustainable populations of fished species. Collaboration with international organizations and the exchange of scientific information is also important in achieving these conservation goals. Meanwhile, the utilization of fish resources is regulated in Article 62 of the Utilization of the Living Resources UNCLOS 1982, which explains that states that catch fish in the EEZ must comply with conservation measures and other provisions stipulated in the laws and regulations of coastal states, namely:³⁰

- a. licensing of fishermen, fishing vessels, and equipment, including payment of fees and other forms of remuneration which, in the case of developing coastal states, may consist of adequate compensation in the field of financing, equipment, and technology related to the fishing industry,
- b. determine species and catch quotas,
- c. regulates seasons, areas specifically for fishing with fishing equipment, and allowable fishing vessels that may be used,
- d. determine the age and size of the fish and other species that may be caught,
- e. determine the information required from fishing vessels, including catch and fishing effort statistics and vessel position reports,
- f. organize specific fisheries research programs authorized and supervised by the coastal state and manage the operation of such research including catch sampling, sample handling, and documentation and reporting for findings and scientific data,
- g. placement of observers or trainees on these ships by the coastal state,
- h. landing of all or part of the catch by these fishing vessels at the port of the coastal state,
- i. provisions relating to partnerships or other collaborative arrangements,
- j. requirements for personnel training and transfer of fisheries technology, including increasing the capacity of coastal states to conduct marine fisheries research,
- k. law enforcement procedures.

As stated above, the guidelines for fish-producing countries are outlined in the 1995 CCRF, in detail in Article 6 is stated:³¹

³⁰ Dr.Ida Kurnia,S.H., M.H. , Loc.cit.

³¹ FAO, Code of Conduct for Responsible Fisheries, (Rome: Food and Agriculture Organization of The United Nations, 1995), Article 6.

- a. States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources.
- b. Fisheries management should promote the maintenance of the quality, diversity, and availability of fishery resources in sufficient quantities for present and future generations in the context of food security, poverty alleviation, and sustainable development. Management measures should not only ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species.
- c. States should prevent overfishing and excess fishing capacity and should implement management measures to ensure that fishing efforts are commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate.
- d. Conservation and management decisions for fisheries should be based on the best scientific evidence available, also taking into account traditional knowledge of the resources and their habitat, as well as relevant environmental, economic, and social factors. States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate.
- e. States and subregional and regional fisheries management organizations should apply a precautionary approach widely to the conservation, management, and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment, taking account of the best scientific evidence available. The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species, and non-target species and their environment.
- f. Selective and environmentally safe fishing gear and practices should be further developed and applied, to the extent practicable, in order to maintain biodiversity, conserve the population structure and aquatic ecosystems, and protect fish quality. Where proper selective and environmentally safe fishing gear and practices exist, they should be recognized and accorded a priority in establishing conservation and management measures for fisheries. States and users of aquatic ecosystems should minimize waste, catch of non-target species, both fish and nonfish species, and impacts on associated or dependent species.
- g. The harvesting, handling, processing, and distribution of fish and fishery products should be carried out in a manner that will maintain the nutritional value, quality, and safety of the products, reduce waste, and minimize negative impacts on the environment.

- h. All critical fisheries habitats in marine and freshwater ecosystems, such as wetlands, mangroves, reefs, lagoons, nurseries, and spawning areas, should be protected and rehabilitated as far as possible and where necessary. Particular effort should be made to protect such habitats from destruction, degradation, pollution, and other significant impacts resulting from human activities that threaten the health and viability of the fishery resources.
- i. States should ensure that their fisheries interests, including the need for conservation of the resources, are taken into account in the multiple uses of the coastal zone and are integrated into coastal area management, planning, and development.
- j. Within their respective competencies and in accordance with international law, including within the framework of subregional or regional fisheries conservation and management organizations or arrangements, States should ensure compliance with and enforcement of conservation and management measures and establish effective mechanisms, as appropriate, to monitor and control the activities of fishing vessels and fishing support vessels.
- k. States authorizing fishing and fishing support vessels to fly their flags should exercise effective control over those vessels so as to ensure the proper application of this Code. They should ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional, or global levels. States should also ensure that vessels flying their flags fulfill their obligations concerning the collection and provision of data relating to their fishing activities.
- l. States should, within their respective competencies and in accordance with international law, cooperate at subregional, regional, and global levels through fisheries management organizations, other international agreements, or other arrangements to promote conservation and management, ensure responsible fishing, and ensure effective conservation and protection of living aquatic resources throughout their range of distribution, taking into account the need for compatible measures in areas within and beyond national jurisdiction.
- m. States should, to the extent permitted by national laws and regulations, ensure that decision-making processes are transparent and achieve timely solutions to urgent matters. States, in accordance with appropriate procedures, should facilitate consultation and the effective participation of industry, fish workers, environmental, and other interested organizations in decision-making with respect to the development of laws and policies related to fisheries management, development, international lending, and aid.
- n. International trade in fish and fishery products should be conducted in accordance with the principles, rights, and obligations established in the World Trade Organization (WTO) Agreement and other relevant international agreements. States should ensure that their policies, programs, and practices related to trade in fish and fishery products do not result in obstacles to this trade, environmental degradation, or negative social, including nutritional, impacts.
- o. States should cooperate in order to prevent disputes. All disputes relating to

fishing activities and practices should be resolved in a timely, peaceful, and cooperative manner, in accordance with applicable international agreements or as may otherwise be agreed between the parties. Pending settlement of a dispute, the States concerned should make every effort to enter into provisional arrangements of a practical nature which should be without prejudice to the final outcome of any dispute settlement procedure.

- p. States, recognizing the paramount importance to fishers and fish farmers of understanding the conservation and management of the fishery resources on which they depend, should promote awareness of responsible fisheries through education and training. They should ensure that fishers and fish farmers are involved in the policy formulation and implementation process, also with a view to facilitating the implementation of the Code.
- q. States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy, and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.
- r. Recognizing the important contributions of artisanal and small-scale fisheries to employment, income, and food security, States should appropriately protect the rights of fishers and fishery workers, particularly those engaged in subsistence, small-scale, and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.
- s. States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.

It means this country must work collectively with other countries to promote conservation and responsible fishing, which received solemn affirmation in the CCRF. This is based on the existence of types of fish that have migratory characteristics, both types of fish that migrate limitedly (straddling fish stock), which have the ability to cross national boundaries (transboundary), and types of fish that migrate long distances (migratory species). The availability of this type of fish highly depends on mutual interests because it is a common problem, and the solution solves it in a collaborative manner. Therefore, it is necessary to formulate arrangements that become the basis for cooperation guided by responsible governance so that the availability of fish resources is relatively stable.

Furthermore, although UNCLOS 1982 has broadly regulated several species of fish that have particular characteristics, including fish that migrate limitedly (straddling fish stocks), as well as types of fish that migrate long distances (highly migratory fish stocks),³² the provisions of the regulations are as regulated in articles 63 and 64 of UNCLOS 1982 only apply to the EEZ and do not cover the management and conservation of sustainable fish resource stocks along the route of these types of fish

³² Loc. cit.

(which are outside the authority of the coastal state), without reducing or violating the sovereign rights of the coastal states. An agreement was formed to fill out the absence of regulations in areas that serve as transit routes for supplies of limited migratory fish species and long-migrating fish species, Agreement For Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks.³³

As an embodiment of the Agreement For Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks, Regional Fisheries Management Organizations (RFMOs) were formed in various regions and have their own rules for managing fisheries activities. The formations of the RFMOs were also strengthened by the FAO report, which shows that total world fisheries production was increasing gradually.

ASEAN nations realized the importance of conserving the marine fisheries resources in the ASEAN EEZ. This is to ensure the sustainability of the marine ecosystem in ASEAN EEZ. The primary objectives for preserving marine fisheries resources in ASEAN EEZ are as follows:³⁴

- a. encourage collaboration in efforts to conserve marine fisheries resources in the EEZ through research activities, international exchange, and effective management,
- b. improve the social economic welfare of the fishermen,
- c. increase fishermen's production and income,
- d. expand trade and marketing of fish catches between these states.

Steps that must be taken in order to preserve the marine fisheries resources in ASEAN EEZ, among others, are as follows:³⁵

- a. sustainable fisheries management,
- b. sustainable fisheries management must be carried out to regulate fishing in the EEZ area. These steps should include limiting fishing quotas, regulating the fishing equipment used, monitoring fishing that does not comply with regulations,
- c. increasing public awareness,
- d. and the communities living around the EEZ area be given an understanding of the importance of maintaining the sustainability of marine fisheries resources. This can be done through outreach and education campaigns regarding the negative impacts of overfishing,

³³ Indonesia through Law Number 21 of 2009 has ratified Agreement For The Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks, LNRI No. 95, 2009, TLNRI No. 5024.

³⁴ Yustinus Pedo, Regional Cooperation in the Protection and Preservation of Fisheries in EEZ, Postgraduate Thesis, Universitas Padjadjaran, Bandung, page, 172,1994

³⁵ Ibid.

- e. the development of fish farming technology,
- f. the development of fish farming technology can help reduce fishing activity in the EEZ region. With effective fish cultivation, people can utilize existing fish resources sustainably without damaging the marine environment ecosystem,
- g. increased supervision and law enforcement,
- h. strict supervision and law enforcement against illegal activities such as fishing in the EEZ area that does not comply with regulations must be carried out. This can prevent irresponsible fishing practices and damage marine ecosystems.

FORMS OF COOPERATIVE AGREEMENTS TO CONSERVE MARINE FISHERIES RESOURCES BETWEEN ASEAN STATES

In order to overcome irresponsible fishing practices and damage to marine ecosystems, collaborative efforts are needed between ASEAN states to increase supervision and law enforcement, strengthen regional cooperation, and develop strict and effective policies to address Illegal, Unreported, and Unregulated (IUU) fishing practices within this area. Collaborative efforts can be carried out through bilateral, trilateral, regional, and multilateral agreements.

ASEAN is taking a collective approach to managing marine fisheries resources and preventing IUU fishing through consultations and meetings held at the Southeast Asian Fisheries Development Center (SEAFDEC) in accordance with the ASEAN Fisheries Action Plan. There is also a dialogue between ASEAN member states to discuss issues related to IUU fishing. In addition, ASEAN has prepared ASEAN Guidelines for Preventing IUU Fishing which is implemented through the ASEAN Fisheries Supply Chain. ASEAN states that have significant fishing activities are committed to regulating transshipment and landing of fish across borders and strengthening collaborative fisheries management in the high seas and within the framework of Regional Fisheries Management Organizations (RFMO). All ASEAN members also carry out bilateral or multilateral law enforcement at sea.³⁶

Brunei, Indonesia, Malaysia, The Philippines, Thailand, and Vietnam have adopted collaborative measures to combat IUU fishing. For example, Indonesia, Thailand, Singapore, Malaysia, and The Philippines have signed a Memorandum of Understanding in an effort to protect fisheries resources in ASEAN marine areas, namely the ASEAN Ministerial Understanding on Fisheries Cooperation 1983. This Memorandum recognizes the EEZ of ASEAN states and encourages cooperation in the development of fisheries in the ASEAN region as well as the management and conservation of fisheries resources in the ASEAN EEZ. Apart from that, this memorandum of understanding also proposes aquaculture as a way to increase fisheries production in the ASEAN EEZ.

Malaysia, Indonesia, and The Philippines also have a trilateral agreement to patrol IUU fishing in the Malacca Strait and the Sulu-Sulawesi Sea. On October 12, 2017, at the Air Force Base, Subang Malaysia, the Trilateral Air Patrol was launched. This is a continuation of trilateral cooperation between Indonesia, Malaysia, and the Philippines in the Sulu Sea region. On June 19, 2017, the use of Maritime Command

³⁶ Minimizing Illegal Fishing for Marine Capture in the Southeast Asian Region. Bangkok: Southeast Asian Fisheries Development Center (SEAFDEC).

Control (MCC) was inaugurated and the Indomalphi Trilateral Maritime Patrol (TMP) was launched in Tarakan. This collaboration involves three states and will integrate maritime patrols, land exercises, and coordination mechanisms that have been previously developed. The aim of this collaboration is to provide security for water users in the Sulu Sea region, including trade traffic, fishermen, human transportation, and exploration of natural resources in the area, especially the fisheries sector.³⁷

In addition, all ASEAN members encourage the development of a National Plan of Action (NPOA) to prevent and eliminate IUU fishing. Indonesia and Australia established The Regional Plan of Action to promote responsible fishing practices including combating IUU Fishing (RPOA-IUU) which is an effort to eradicate IUU Fishing which was signed by delegations representing the fisheries sector from eleven member states, namely: Australia, Brunei, the Philippines, Indonesia, Cambodia, Malaysia, Papua New Guinea, Singapore, Timor Leste, Thailand and Vietnam. RPOA-IUU member states have agreed to the formation of NPOA as a sustainable form of Model Fisheries Legislation that is adapted to the conditions of the fisheries sector of each state.³⁸ The formation of the NPOA itself was based on recommendations from FAO through the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (IPOA-IUU) 2001 which is a derivative part of the 1995 CCRF. Article 6 of the 1995 CCRF states that in the exploitation of fishery resources, the state is also obliged to carry out conservation responsibly, then management must promote diversity, limit fishing, then the state must ensure that fishing equipment is safe and does not damage the environment. The RPOA-IUU explains the basic principles of sustainable management of regional marine resources and responsible fishing practices. Thus, every rule contained in the RPOA-IUU must be in accordance with and support this principle.³⁹

Apart from that, ASEAN member states have collaborated to show their seriousness in preserving marine fisheries resources through the ASEAN General Fisheries Policy (AGFP). Based on this policy, it is hoped that it can regulate and coordinate the fisheries sector in the ASEAN regional region. The results of the AGFP, are several scope of work proposals covering 15 areas, namely sustainable management of marine and inland water fisheries resources, sustainable management, combating IUU fishing, fisheries science and research, food and nutrition security, international trade, animal health and biosecurity, collection and sharing of fisheries data, protection of endangered marine mammal habitats and protected species, support for small-scale fisheries, disaster mitigation, risk management and climate change, fisheries workforce, fisheries subsidies and marine litter.⁴⁰

Based on those policies, ASEAN states established a work unit forum namely the ASEAN Sectoral Working Group on Fisheries (ASWGF_i) held on 22-24 June 2021, led by Indonesia. ASWGF_i was formed as an effort to bring into being the vision and

37 Indonesian Ministry of Defense, Launching Trilateral Air Patrol Indonesia-Malaysia-The Philippines, <https://www.kemhan.go.id/2017/10/12/launching-trilateral-air-patrol-indonesia-malaysia-filipina.html> accessed 19 June 2023, 19.58.

38 Maully Dini Budiyanti & Arfin Sudirman, Implementation of RPOA-IUU within South East Asia Region, *Journal of International Relations*, Vol.XII No.2, 2019, page, 317.

39 *ibid.*

40 DJPT, in talks related to AGFP FS, Indonesia chairs ASEAN Regional Meeting, <https://kkp.go.id/djpt/artikel/25114-bahas-agfp-fs-indonesia-pimpin-pertemuan-regional-asean>, accessed 27 May 2023, 07.00 WIB.

mission of AGFP, with a work program consisting of management of marine fisheries resources sustainability, protecting rare marine fisheries resources, and developing sustainable fisheries industry for ASEAN states, as well as enhancing marine fisheries preservation efforts. ASWGF is responsible for implementing and executing the plan based on AGFP policy related to the ASEAN marine fisheries regional sector.

The establishment of a bilateral agreement for marine fisheries and initiation of preservation of marine fisheries resources for archipelagic nations in ASEAN, namely Indonesia and the Philippines, started with the agreement of a Memorandum of Understanding between the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia and the Department of Agriculture of the Republic of the Philippines on fisheries Cooperation, signed on the 12th of November 2001 in Jakarta. This would then be followed up by the agreement in marine fisheries resources and fish catches through

Arrangement between the Department of Agriculture of the Republic of the Philippines and the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia on Utilization of Part of the Total Allowable catch in the Indonesian Exclusive Economic Zone, signed in Manila on the 10th of January 2002. This agreement was in effect for three years and can be extended for 3 more years, except for a written announcement from one of the related parties from 6 months beforehand. This would later be updated into The Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of the Republic of the Philippines on Marine and Fisheries Cooperation, on the 23rd of February, 2006.⁴¹

This agreement covers various areas of cooperation such as aquaculture, joint capture fisheries, fish processing and marketing, coastal management, marine fisheries conservation, overcoming illegal fishing practices, research activities, education and training, and environmental protection.⁴² The Memorandum of Mutual Understanding on Maritime and Fisheries Cooperation between Indonesia and the Philippines only lasted for 5 years and ended in February 2011.

On February 24, 2014, the meeting of the Joint Commission on Bilateral Cooperation (JCBC) of the Republic of Indonesia and the Republic of the Philippines resulted in several agreements, one of which was related to cooperation in the fisheries sector, which included appreciation for the significant progress of the second preparatory meeting of the Joint Permanent Working Group (PWG) On Maritime and Ocean Concerns (MOC), on 7-9 January 2014 which agreed on the 5 Segments of the Provisional Exclusive Economic Zone Boundary Line (PEBL), then agreed to combat IUU-Fishing, including arrangements for the repatriation of fishermen arrested due to IUU-Fishing cases, emphasized with the hope of improving the welfare of the people of both states and the discussion and signing of the Memorandum of Understanding (MoU) on Maritime and Fisheries Cooperation between the Republic of Indonesia and the Republic of the Philippines has been accelerated.

CHALLENGES FACED BY ASEAN STATES IN ORDER TO PRESERVE MARINE FISHERIES RESOURCES WITHIN ASEAN EEZ

ASEAN faces significant challenges in order to preserve the marine fisheries resources within its EEZ area. One aspect to be considered is the difference in

41 Ida Kurnia, Op.cit., page 193-194

42 Ibid., page. 195

implementing various efforts from each ASEAN state.⁴³ Here are several challenges that ASEAN states must resolve in order to preserve marine fisheries resources in the ASEAN EEZ region:⁴⁴

- a. overfishing: excessive fishing activities are the main challenge in conserving fisheries resources in the ASEAN EEZ region. Many fishing vessels, both local and foreign, are involved in uncontrolled fishing, resulting in a decline in fish populations and damage to marine ecosystems,
- b. Illegal, Unreported, and Unregulated: IUU fishing activities conducted around ASEAN EEZ. Fishing vessels without license, or violating regulations often operate in ASEAN waters, causing a decline in fish stocks and harming local fishermen,
- c. maritime disputes, and regional tensions: several ASEAN states face territorial disputes over territorial waters in the EEZ area. This dispute could disrupt efforts to conserve fisheries resources because it has the potential to lead to increased regional tensions and uncontrolled fishing activities in disputed areas,
- d. climate change can affect marine ecosystems in the ASEAN EEZ region. Increasing sea temperatures, increasing ocean acid levels, and changes in ocean current patterns can have a negative impact on the balance of marine ecosystems and the survival of fish species. This can reduce fish populations and threaten the sustainability of fisheries resources,⁴⁵
- e. lack of supervision and law enforcement: another challenge is the lack of effective supervision and law enforcement in dealing with illegal fishing and violating catch limits. Illegal fishing vessels are often difficult to detect and prosecute due to limited human resources, technology, and cooperation between countries in terms of supervision and law enforcement,
- f. lack of awareness and education: Lack of awareness and education about the importance of conserving fisheries resources is also a challenge. Some fishermen still use fishing methods that damage the environment due to a lack of knowledge about sustainable fishing practices. Public education and awareness need to be increased to encourage responsible fishing practices.⁴⁶

⁴³ Ibid.

⁴⁴ "Webinar IUUF – The Challenges Facing Indonesia to End Illegal Fishing", Kumparan, uploaded 12 June 2020, <https://www.youtube.com/live/1CwsL7IDUuQ?feature=share> accessed 27 May 2023 11.45 WIB

⁴⁵ Anugerah Yuka Asmara, Journal of Strengthening Exclusive Economic Zones in Managing Indonesian Maritime Resources in Border Areas (Lessons from the Norwegian Government's Policy Regarding Regulations, Utilization of Science and Technology, Institutional Management and International Cooperation), Journal of Maritime and Fisheries Socioeconomic Policy, Vol.2 No.2, 2012, essence the journal

⁴⁶ Ibid., page, 139

III. CONCLUSION

After elaborating a comprehensive discussion, the conclusions are as follows:

1. efforts by ASEAN states to conserve fish resources in the ASEAN EEZ are carried out through regional organizations, namely through the ASEAN Ministerial Understanding on Fisheries Cooperation 1983. With this agreement, it can be seen that there needs to be collective cooperation in the field of marine fisheries, fisheries development in the ASEAN region, and the management and conservation of marine fisheries resources in the ASEAN EEZ with close cooperation between ASEAN member states. Apart from that, this understanding also covers fisheries cultivation to increase fisheries production in the ASEAN EEZ. In addition, UNCLOS 1982, through Article 62 Utilization of the living resources, explains that states that fish in the EEZ must comply with conservation measures and other provisions stipulated in the laws and regulations of coastal states. This includes licensing fishermen and fishing vessels, determining species and catch quotas, regulating seasons, areas, and fishing equipment and gear, as well as determining the age and size of fish that may be caught. ASEAN uses a collective approach to managing marine fisheries resources and preventing IUU fishing. This is done through consultations and meetings at SEAFDEC and dialogue between ASEAN member states. ASEAN has also prepared the ASEAN Guidelines for Preventing IUU Fishing which are implemented through the ASEAN Fisheries Supply Chain. ASEAN collaborates in preserving marine fisheries resources through the AGFP policy. AGFP regulates the fisheries sector in the ASEAN region and covers 15 focus areas, including fisheries resource management, countering IUU fishing, fisheries research, food safety, international trade, animal health, habitat protection, and marine waste management. Based on this policy, ASEAN member states formed a working unit forum, namely, ASWGF_i to realize the vision and mission of AGFP.
2. In conserving marine fisheries resources in the EEZ, ASEAN states have serious challenges and obstacles, namely excessive fishing, illegal fishing practices (IUU fishing), maritime disputes, climate change, lack of legal supervision, and lack of educational awareness. These challenges can threaten the sustainability of marine fisheries resources and marine ecosystems. The solution is the collaboration of ASEAN states in implementing consistent, effective activities and increasing public awareness and education about sustainable fishing practices.

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