

The implementation of vessel-sinking policy as an effort to protect Indonesian fishery resources and territorial waters

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Abstract. This study aims to analysis the effectiveness of foreign ship sinking policies to eradicate illegal, unreported, and unregulated (IUU) fishing. There are many foreign fishing vessels were detained due to IUU fishing in Indonesia's exclusive economic zone (EEZ) waters, particularly in the Natuna and Anambas region. In combating illegal fishing, the government of the Republic of Indonesia take concrete actions in protecting marine potentials by sinking foreign vessel policies. In the last three years more than 300 foreign ships are drowned by Indonesian government. This study revealed that regulations concerning the act of sinking the vessel have been in existence since 2009 but lack of socialization. The Indonesian government's policy regarding foreign-flagged vessel carrying out IUU fishing is regulated under Law Number 45 of 2009 on Fisheries, and internationally permitted with certain restrictions on conditions set forth in article 73 paragraph (3) of UNCLOS 1982. These policy is part of an effort to improve the deterrence effect of regional offenses that could harm and threaten the sovereignty of the state.

1. Introduction

As an archipelagic state, Indonesia benefits from its location which lies at the intersection of two Continents-Asia and Australia-and two oceans- Indian Ocean and Pacific Ocean. After the enactment of the United Nations Convention on the Law of the Sea in 1982 on 16 November, 1994, the area of Indonesia's territory has increased to 8,193,163 km², which consists of 2,027,087 km² of land and 6,166,163 km² of waters. The size of Indonesia's sea can be detailed into 0.3 million km² of territorial sea, 2.8 million km² of archipelagic waters, and 2.7 millions km² of EEZ [1].

The potential of Indonesian marine resources has four extremely strategic meanings: (1) as a provider of natural resources and source of livelihood; (2) as a unifier of the society; (3) as a defense medium; and (4) as a liaison medium. As we all know, two-thirds of trade traffic takes place at sea. Therefore, sea has a considerable benefit for the sustainability of the world's economy [2]. The abundance of natural resources and services of marine environment can be used for improving the prosperity of the nation, at least in 11 marine economic sectors: (1) marine fisheries; (2) marine cultivation; (3) fish processing industry; (4) marine biotechnology industry; (5) mining and energy; (6) marine tourism; (7) mangrove forest; (8) sea transportation; (9) small islands resources; (10) maritime industry and services; and (11) non-conventional natural resources. The overall potential economic value of all of the eleven marine sectors is estimated to reach USD500 billion (4,500 trillions) each year (Indomiliter, 2013). Based on the data from the Food and Agricultural Organization (FAO), Indonesia's detriment caused by illegal fishing has reached 30 idr trillion each year, which is 25% of



the total value of Indonesia's fishery resources. It means that the detriment is 25% of 6.5 million tons, which equals to 1.6 million tons or 1.6 billion kilograms. The detriment is still lower than that estimated by the government, which reaches up to 300 idr trillion each year.

There are disastrous impacts of illegal fishing that not only harm the nation economically by causing loss of trillion Rupiahs, but also destroy the economy of fishermen. Illegal fishing may also trigger conflicts or tension in the diplomatic relation between nations, especially the bilateral relation between a country and its neighboring countries. This is due to the fact that sea serves as a boundary between two countries, and the boundary is determined based on bilateral and multilateral extraditions. It means that the power of a country is only valid within its territorial borderline [3]. Furthermore, conflicts in some cases of traditional fishing often happen at the frontier between Indonesia and Malaysia and between Indonesia and Australia. Therefore, there are some worries that illegal fishing will cause harm to the state's sovereignty and threaten the preservation of marine resources. It also raises concerns that there is an impression that Indonesia is unable to protect its marine resources. The impacts of illegal fishing can also be found in the context of environment and ecology. The government has made policies relating to fishing, the requirements and criteria for obtaining fishing permits, establishment of fishing ground, types of the fish to be captured, the amount of fish appropriate to the vessel qualification, the area of fishing activity, and the fishing gear.

From 2014 to 2017, more than 300 foreign ships have been drowned in Indonesia's EEZ, especially Natuna and Anambas waters. There are numerous modes used in fish theft, and the modes most frequently used were illegal fishing (catching fish without permission), violating the laws despite owning the permit, falsifying document, transshipment at sea, disabling the transmitter (especially the case with the ships that are required to use transmitter), and destructive fishing using chemicals, biological materials, explosives, equipment, tools, methods, or even construction that can endanger the sustainability of marine resources [4].

In eradicating illegal fishing cases in Indonesia, and as an effort to enforce law at sea, Indonesian government has enacted Law Number 31 of 2014 *juncto* Law Number 45 of 2009 on Fishery. According to this fishery law, the sanctions to be imposed against the person who conducts illegal fishing are quite severe (i.e. if a fishing vessel does not possess the permit or license to conduct activity or if the vessel with Indonesian flag violates the rules, the operator and the owner of the vessel are subject to imprisonment of 6 years or fine of 2 idr billion). Moreover, if the violation is conducted by a foreign-flagged vessel, the operator and the owner of the vessel are liable to imprisonment of 6 years or fine of 20 idr billion. The government of the Republic of Indonesia also takes a concrete action to protect its maritime potential. This action is taken by establishing Coordinating Ministry of Maritime Affairs. This ministry has asserted that Indonesia's sovereignty cannot be disturbed by taking a firm action in the form of sinking foreign vessels proven to have conducted illegal fishing in Indonesia's territorial waters. Based on this new policy, three vessels from Vietnam were detonated on 5 December, 2014 at Natuna Sea, Riau Archipelago. The three vessels with more than 2.1 tons of stolen fish and 33 crew members were caught in the northern part of Tarempa Island, Anambas, Riau Islands, on 1 November, 2014. Some other vessels will also be sunk as soon as possible. The vessels aforementioned include five vessels in Pontianak and three vessels in Berau. Exploding and sinking vessels are done to show Indonesia's firmness in protecting its territorial waters. Indonesia assured that it will take any necessary steps to protect its territory. The action of sinking vessels is expected to convey a message to other foreign fishermen not to violate the law in Indonesia's territory and rob the sea's wealth. It is also intended to give preventive effect and decrease violation of law in Indonesia's territorial waters. Based on the aforementioned facts, it is important to conduct a scientific study on the effect of the application of 'sink the foreign vessel' policy on illegal fishing in Indonesia's territorial waters.

2. Indonesia's Vessel-Sinking Policy in Securing the Fishery Abundance

Illegal fishing activities in Indonesia's waters also have significant negative social impacts on fishermen and the workers of fish processing factories. For Indonesia and other countries in Southeast Asia, fishery and forestry sectors are the main sources of food sustainability. Massive and drastic

exploitation of the sea as a major effort to improve a country's economy and the welfare of its population often happens. Social impact increases with the vulnerability caused by conflict/dispute among traditional fishermen and trawl owners of different countries. Besides, with the abundant fishery resources, fish processing factories become very important. Catch reduction and illegal fishing activities will indirectly affect the survival of fish processing factory workers. Reduced fish supply disables some companies to operate, and many layoffs happen because there is no more supply of raw materials. The fish caught by foreign vessels or Indonesian fishing boats are usually directly delivered out of Indonesia through transshipment, which is inconsistent with the Regulation of the Minister of Marine Affairs and Fisheries Number 16 of 2006, which requires that fish catch should be landed and processed on land.

The rise of occurrences of IUU fishing activities in Indonesia's sea has increasingly raised concerns. Based on the data released by the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, the loss of the state due to illegal fishing reaches 300 trillion rupiahs per year, which is 25% of the total potential of Indonesian fisheries. The loss affects the state and threatens the sustainability of marine and fishery resources. Some of the factors causing illegal fishing are the rise of global fish consumption level, decreased fish resources in other countries, weakness of Indonesian fishery fleet in terms of technology, lack of monitoring by authorities at Indonesia's sea, and weak law enforcement at Indonesia's sea.

There are considerable impacts of illegal fishing practices that not only harm the state economically with the loss of trillions of rupiahs, but also destroys the fishermen's economy. Illegal fishing often triggers conflict or tension in the diplomatic relations between nations, especially bilateral relations between adjacent and neighboring countries. Negative impacts of illegal fishing can also be found in the environmental and ecological contexts. The government's policies which are related to fishing should comply with the rules and criteria of Fishing Permit, the establishment of fishing ground, the type of fish consumed, the catch capacity in accordance with the type of vessel and the total allowable catch, and the fishing equipment. The vastness of the sea area belonging to the jurisdiction of Indonesia and the fact that Indonesia's EEZ is widely exposed and adjacent to the open sea have attracted entry of foreign and local fishing boats to practice illegal fishing.

In 2014, 78 foreign fishing vessels were seized for conducting illegal fishing in Indonesian EEZ, especially in Natuna and Anambas waters. Illegal fishing makes the Anambas people, 90% of whom work as fishermen, to be eliminated. Many modes are applied in illegal fishing, but some modes/types of illegal activities are frequently used, namely unlicensed fishing, licensed fishing but violating the provisions of law, fraud/manipulation of documents, transshipment at sea, deactivation of transmitters (partially for ships required to install transmitters), and destructive fishing using chemicals, biological materials, explosives, tools and/or modes, and/or constructions that endanger the preservation of fish resources.

The impacts of illegal fishing crimes are detailed as follows.

- 1) Damage to the Sustainability of Fish in the Sea

Head of Research and Development Department of the Ministry of Marine Affairs and Fisheries, Zulficar Mochtar, explains that 85% of global fishery has experienced overexploitation. He said that if no anticipative action is taken, the fisheries in the territory of the Republic of Indonesia will also be threatened. Thousands of foreign ships have illegally exploited the fish in Indonesia by duplicating fishing licenses in Indonesia. The data recorded that 7,000–10,000 foreign ships have looted the fish in Indonesia every year.

- 2) Detriment to the state's economy

Indonesia's losses due to illegal fishing practices are considerable. The data from the Food and Agricultural Organization (FAO) noted that Indonesia loses 30 idr trillion per year due to illegal fishing. The number was assessed by the Minister of Marine Affairs and Fisheries, Susi Pudjiastuti, as quite small. According to her calculation, the state's losses due to illegal fishing can reach USD20 billion or 240 idr trillion per year.

3) Social Affairs

For Indonesia, IUU Fishing is a main concern because it happens every day in Indonesia's waters. In Southeast Asia, fishery sector is one of the main sources of food sustainability. Economic motives often serve as the reason for the massive exploration of fishery resources, which in turn, become a major cause for drastic reduction of fish stocks in Southeast Asia. This problem will adversely affect the survival of more than 100 million people. This has also led to disputes among local fishermen with trawler owners and between traditional fishermen of different countries. The decline in fish stocks in Indonesia's waters as a result of illegal fishing by trawler owners has also forced Indonesian traditional fishermen to engage in illegal fishing activities in Australia's waters, which has caused problems between the two countries. The direct impact is not only felt by the fishermen, but also the workers of factories, especially the fish processing factories.

4) Environmental Damage

In terms of environment, the use of large-scale fishing gear (trawl), which is not in accordance with the maritime requirements and conditions, has caused permanent damages and disturbed the marine ecosystem and biota. The depletion of fish resources in Arafuru waters is certain because for almost 3 years, there have been massive fishing activities which are arbitrary and exploitative in nature.

5) Illegal Fishing that violates Indonesian sovereignty

From the majority of illegal fishing cases occurring in Indonesia, the violation of Indonesian sovereignty is committed by all illegal fishing actors of the abovementioned countries. Foreign fishermen have crossed Indonesia's borders without permission, entered Indonesia's seas, and robbed Indonesia's fishery assets. Indonesia's law should be upheld in order to maintain Indonesia's sovereignty and prevent the border-crossing by countries that intends to rob the nation's assets. Such action is a form of criminal act occurring in Indonesia's waters.

The Minister Regulation Number KEP/50/MEN/2012 is the implementation of the Code of Conduct for Responsible Fisheries (CCRF) agreed in 1995 by the Food and Agriculture Organization (FAO) countries regarding the management and development of an orderly, responsible, and sustainable fishery, and as the implementation of international action to combat IUU Fishing as outlined in the International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing (IPOA-IUU Fishing) in 2001. Follow-up measures on IPOA-IUU Fishing should be taken by all countries, including Indonesia, by preparing action plans for the prevention and control of IUU Fishing at the national level.

Indonesian government's policy of explicitly sinking foreign vessels that commit illegal fishing in Indonesian territorial waters has received varied responses from many parties. This policy is supported by some as a form of assertiveness by the government of Indonesia in maintaining the sovereignty of the nation. For example, the Minister of Foreign Affairs, Retno Marsudi, said that this decisive action should be done as an effort of the state to conduct law enforcement without being bargained, and further stated that this action is a starting point for Indonesia to be respected by other nations [5]. It is also supported by the Minister of Marine Affairs and Fisheries, Susi Pudjiastuti, who stressed that the sovereignty of the state is a thing that must be maintained in any required ways [6]. However, some parties also doubt whether such decisive actions could be undertaken by the government of Indonesia which has been inclined to be gentle on border conflicts. It is understandable, given that the sunken ships so far were small vessels only.

Actually, the special action of sinking foreign vessels by Indonesian government is not a new issue. This can be seen from the regulation concerning that action, which has been listed since 2009 in the Law concerning Fisheries (Law of the Republic of Indonesia Number 45 of 2009 on Fisheries), Article 69 paragraph 4 which states;

"... penyidik dan/atau pengawas perikanan dapat melakukan tindakan khusus berupa pembakaran dan/atau penenggelaman kapal perikanan yang berbendera asing berdasarkan bukti permulaan yang cukup." (... a fishery investigator and/or supervisor may

take a special action in the form of burning and/or sinking a foreign-flagged fishing vessel on the basis of sufficient preliminary evidence)

This regulation has been applied by Indonesian Navy. This was confirmed by the Head of Strategic Intelligence Agency for the period 2011–2013, Rear Admiral (Ret.) Soleman B. Ponto [7]. The actions taken by Indonesian government to sink illegal foreign vessels are part of the efforts to improve the deterrent or repellent effect of regional offenses that harm and threaten the sovereignty of the state. Although the regulation on sinking vessel action has been in place since 2009, the socialization of the regulation had been under-done by the government, both to the internal and external parties through Indonesian embassies in many countries, especially those bordering with Indonesia. That is what causes many foreign fishermen remain violating the territory of Indonesia. They do not feel threatened since they are unaware of the firm action against the committed violations. On the other hand, if the regulation is implemented without sufficient socialization, it is worried that it will disrupt Indonesia's diplomatic relations with countries whose fishermen commit violations.

Law Number 31 of 2004 which was amended with Law Number 45 of 2009 on Fisheries mentions that fish theft is classified as a criminal act. The penalty applies not only to the on-board operators, but also the owner of the ship and the owner of the company (Article 8). The foreign ship of fish thieves may also be burned and drowned (Article 69), even the owner is subjected to a fine of up to 20 idr billion (Article 93). The legal basis for the drowning of foreign fishing vessels is also clearly stated in Article 69 paragraph (4) of Law Number 45 of 2009 on Fisheries, which reads, "in the case of carrying out the supervisory functions, the investigator and the fishery supervisor may perform special actions in the form of burning and/or sinking foreign flagged fishing vessels on the basis of sufficient preliminary evidence".

Regarding sovereignty, even though Indonesia as a sovereign state is entitled to a total right to secure its national interests, in this case monitoring the territorial boundaries to secure existing marine resources, the implementation of such regulation will be difficult if Indonesia has a bilateral agreement with a particular country. For example, Indonesia has a Memorandum of Understanding (MoU) agreement with Malaysia on the treatment of fishermen, agreed in Bali, January 27, 2012. Regarding the violation of the territory by the fishermen, each country agreed on a precautionary measure with the details set forth in Article 3 Point B. This is contrary to Law Number 45 of 2009, On the one hand, the law requires strict action, but on the other hand, the rules of the MoU put forward more persuasive efforts.

The conflict in the regulation is one of the reasons why Indonesian government raised the issue of firm action against foreign fishermen into national and international scope. It is part of the Indonesian government's diplomacy strategy to reduce territorial violations by foreign fishermen. Indonesian government prefers not to take risks by changing the bilateral agreement because it will affect the relations between the two countries. Therefore, the current issue is directed more directly to the perpetrators of violations in order to provide psychological effects by spreading fear through the threat of burning and sinking ships. This is what causes deterrent effects later. Furthermore, the deterrent effect can be interpreted as an attempt to influence the judgment of others on its importance, which in its application, it is possible to use provocative strategies in accordance with the existing conditions [8]. This method will certainly be much safer than making the government of Indonesia to instantly sign a deal with the government of the concerned countries, which could adversely affect diplomatic relations between countries.

3. The Effectiveness of Vessel-Sinking Policy

The sinking of foreign vessels that conduct fish theft in the territory of Indonesia per se is not new in the era of President Joko Widodo. This is commonly practiced in the world as an effort to overcome illegal fishing. In February 2014, Indonesian fishermen's vessels that were caught entering Papua New Guinea's sea territory were also burned by the country's marine patrol. The head of the Indonesian Navy's Information Service, First Admiral Manahan Simorangkir, said that it was not the first time the

Navy had attempted to sink illegal vessels. The Navy has at least sunk foreign vessels that stole fish in the waters of the archipelago at least four times in 2003. Throughout 2003, the Navy had sunk four illegal foreign vessels with Philippine flag and 4 illegal foreign vessels with Thailand flag. Meanwhile, the Director General of Marine and Fishery Resources Control, Asep Burhanudin, also stated that the drowning of foreign vessels that conducted fish theft in Indonesian marine areas has often been done since the administration of President SBY. He stated that in the period 2007–2012, there were 38 foreign ships drowned. Asep detailed that since 2007 to 2012, there were 38 ships that have been drowned, with 1 ship being sunk in 2007, 32 ships in 2009, 3 ships in 2010, 1 ship in 2011, and 1 vessel in 2012. All of the vessels were captured by the Natuna Sea Fisheries Management Area. The majority of the captured and drowned vessels were from Vietnam.

Many strategic points within Indonesian archipelago can be used as illegal fishing spots, namely: North Sumatra Sea, Riau Islands, West Kalimantan, Maluku, North Sulawesi, and North Halmahera Papua. Other locations selected in Indonesia are: Natuna Sea, Karimata Strait, Banda Sea, Sulawesi Sea, Arafuru Sea, Maluku Sea, and Seram Sea. The location of the spots was chosen because, in addition to having abundant marine resources, they also lack supervision from the authorities and other surveillance equipment. Thus, foreign ships that conducted illegal fishing could freely take the sea wealth in the area. Illegal fishing perpetrators, viewed from the perspective of arrest operations, can be classified into two groups namely Indonesian ships and foreign ships or ex-foreign ships originating from various countries, which mostly are the neighboring countries. Foreign ships do have more modern technology, larger capacity of catch, and wider net machine than those of Indonesian ships. As a coastal state, certainly Indonesia has the authority to protect its territorial waters, especially the natural resources contained there. The position of Indonesian waters in Indian Ocean has several significant points such as the Strait of Hormuz, the Strait of Malacca, the Strait of Lombok, the Sunda Strait, and the large extent of Indonesian waters, but it does not support adequate infrastructure and resources in every water region open to remote areas, and in the border areas of neighboring countries. Hence, frequently the perpetrators of illegal fishing can easily penetrate the sovereignty of Indonesia. Due to the privileges of international routes in the territorial waters of Indonesia and the aspects of sovereignty, which is the essential property of a state as its ultimate power, the state has a monopoly of power within its boundaries, in which a current nature of public and state organization cannot justify the individuals taking such disservice. Therefore, in an effort to overcome the violation of sovereignty or illegal fishing criminal acts, it should be done as a real action in the form of submerging the foreign ships.

In combating the problem of illegal fishing in Indonesia, and as a law enforcement effort at sea, Indonesian government has approved the Law number 31 Year 2004 *juncto* Law Number 45 of 2009 on Fisheries. Yet, it is better to understand that law enforcement on land is different from marine law enforcement at sea. Some opinions explain:

1. At sea, there are two conflicting interests, namely the interests of national and international law. While on land, only national interest is accommodated.
2. Law enforcement at sea is based on different legal regimes. Differently, differences in legal regime are not recognized on land.
3. At sea, the subject of law is a person (Indonesian citizen or foreigner) and the state shown in the flag of the ship, while on land, the subject of law is only person.
4. the provisions of national and international law grant law enforcement authorities the permit for warships against maritime security breaches

Regarding law enforcement, including law enforcement against illegal fishing perpetrators, UNCLOS 1982 outlines marine regions in two categories, namely the seas under the sovereignty of a coastal state and the marine territory in which a country has the jurisdiction of a coastal state. The marine areas that are subject to the sovereignty of a coastal/archipelagic state cover inland waters and territorial sea or archipelagic waters and territorial waters. While the marine areas where a coastal/archipelagic state has sovereign rights¹ and jurisdiction are the EEZ and continental shelf

¹ Sovereignty is the highest authority that a country can perform to exercise its power over a territory and/or its

(article 77 of UNCLOS 1982). The EEZ region has a sui generis legal status (unique/different). The uniqueness lies in the existence of rights and obligations of coastal states and other countries over EEZ. Unlike in territorial sea, where coastal states have sovereignty, in EEZ, coastal states have only sovereign rights. Such sovereign rights are limited to the exploration and exploitation of marine resources, both biological and non-biological resources.

UNCLOS 1982 does not govern the IUU Fishing. The discourse on illegal fishing came together in the framework of IUU fishing practices during the CCAMLR (Commission for Conservation of Antarctic Marine Living Resources) forum that was held on 27 October to 7 November, 1997. IUU Fishing practice is conducted both in the region of the sea that is subject to sovereignty and in EEZ by the vessel of the concerned coastal state itself or by a foreign-flag ship. Although it does not regulate IUU Fishing, UNCLOS 1982 is still related to law enforcement at sea in general both in marine areas subject to the sovereignty and EEZ of a state.

If a violation of the coastal state legislation takes place in the territorial sea, inland waters or archipelagic waters of a country, then in accordance with the sovereignty granted by Article 2 of UNCLOS 1982, the coastal state may enact all of its laws and even its criminal law, against the vessel provided that the violation has an impact on the coastal state or disrupts the security of the coastal state as defined in Article 27 (1) of UNCLOS 1982. However, if the elements mentioned in Article 27 (1) UNCLOS 1982 are not met, the coastal state cannot apply its criminal jurisdiction to the vessel. The extent to which the authority of a coastal state is allowed to enforce its law for unlawful foreign ships in its territorial waters, inland waters, or archipelagic waters (meeting the provisions of article 27, paragraph 1) is the embodiment of territorial jurisdiction.

Article 27 (5) UNCLOS 1982 further refers to Chapter IX (Conservation and Protection of the Marine Environment) and Chapter V on EEZ. In the case of violations of coastal state's laws relating to exploration, exploitation, conservation, and management of fisheries resources, a coastal state is allowed to enforce its law. Coastal state law enforcement in EEZ is regulated in article 73 of UNCLOS 1982, which says:

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the EEZ, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.
2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.
3. Coastal State penalties for violations of fisheries laws and regulations in the EEZ may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.
4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Under Article 73 of UNCLOS 1982, if a foreign ship fails to comply with the coastal state's fishery legislation in EEZ, the coastal state may board, inspect, arrest, and conduct litigation to the vessel, and notify the state of the vessel flag. However, the vessel and its arrested crew shall immediately be released with reasonable bonds provided to the coastal state. The imposed penalty shall not be in the

people. In the case of exercising its sovereignty, a country does not need to ask for 'permission' to other countries to exercise its power. This sovereignty, when associated with the geographical conditions of Indonesia, includes land, inland waters (internal waters), archipelagic waters, and territorial sea.

While Sovereign Right is the authority of a country to a certain region where its implementation must be subject to the rule of law applicable to the international community. What this means is, Sovereign Right of a country must be a consensus and receive approval from another country. Sovereign rights generally govern the use of natural and/or marine resources in certain areas which not covered by the territory of the State's sovereignty.

form of physical punishment, for instance, imprisonment. Thus, the law and the form of punishment for the ship and its crew in the sea area that is subject to sovereignty are different from that in EEZ. The authority of the coastal state against violations in EEZ is limited only to enforce the laws relating to fisheries. This difference is due to the fact that in EEZ, the coastal state only has sovereign rights. Therefore, it is limited to matters relating to sovereign rights owned by the coastal state or the archipelagic state. The provision of article 73 (2) requires the coastal State to immediately release the captured vessel and its crew after being given a proper security deposit or other form of security. The release procedure is immediately set forth in Article 292.

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within 10 days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.
2. The application for release may be made only by or on behalf of the flag State of the vessel.
3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.
4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

The immediate release procedure of the detained ship and its crew is an innovation in international maritime law. However, while Article 292 Paragraph (1) requires that the security deposit or other financial security be "reasonable", UNCLOS 1982 does not provide details about the "feasibility" of the financial security.

In Fishery Law Number 31 of 2004, the sanctions given to the perpetrators of illegal fishing are quite heavy. An example is the obligation of each fishing vessel to have a fishing license, and for an Indonesian-flagged vessel violating such provisions, the operator and the owner of the vessel may be subject to a six year criminal penalty and a fine of Rp.2 billion. If the violation is done by a foreign-flagged vessel, the operator and the owner of the vessel are subjected to imprisonment of six years and a fine of Rp.20 billion. The judge must also have passed the decision within 30 days from the date of receipt of the submission of the case file from public prosecutor. The same period of time also applies to high court judges and the Supreme Court in deciding the request for Appeals and Cassation. It is regulated in Article 80 paragraph (1) of Law on Fisheries, which states: "*Dalam jangka waktu paling lama 30 (tiga puluh) hari terhitung sejak tanggal penerimaan pelimpahan perkara dari penuntut umum, hakim harus sudah menjatuhkan putusan*" (Within a maximum period of 30 (thirty) days from the date of receipt of the matter delegation from the public prosecutor, the judge shall have already rendered the verdict).

With this ad-hoc court, it is expected that the value of salvaged fish can increase while the damage of foreign vessels to be confiscated is reduced. This can be donated to national fishermen. The existence of a fishery law is expected to bring positive results in law enforcement at sea. In combating illegal fishing, the government of the Republic of Indonesia has also taken concrete actions to protect its marine potential. The action referred to is establishing the Coordinating Ministry for Marine Affairs and Fisheries. This Ministry has shown that Indonesian sovereignty cannot be contested by taking decisive action to sink foreign fishing ships proven to have conducted illegal fishing in Indonesian waters.

In the implementation of supervision and guard of Indonesian maritime security, Fishery Supervisory Boat performs supervision and law enforcement in fishery field within the fishery management area of the Republic of Indonesia. The fishery supervisor performs its functions in accordance with Law Number 45 of 2009, especially Article 69. In carrying out the function, the fishery investigator and/or supervisor may take special actions in the form of burning and/or drowning the foreign-flagged fishing vessel based on "sufficient preliminary evidence" in accordance with the mandate of Law Number 45 of 2009. This "sufficient preliminary evidence" is a preliminary evidence to suspect a criminal offense in the field of fisheries by a foreign-flagged fishing vessel, for example a foreign-flagged fishing vessel which has no fishing license, and clearly captures and/or transports fish when it enters the area of the fisheries management of the Republic of Indonesia. "Sufficient preliminary evidence" in law enforcement efforts is only required in the preliminary examination stage or in searching and finding the truth. The word "sufficient preliminary evidence" is contained in Article 17 of the Criminal Procedure Code where it is stated that "sufficient initial evidence" forms the basis for arresting someone suspected of committing a crime".

Thus, "sufficient preliminary evidence" is a preliminary evidence for suspicion of a criminal offense. This provision indicates that arrest cannot be arbitrarily executed and must be addressed to those who actually commit a crime. Meanwhile, "sufficient preliminary evidence" according to the explanation of the Fisheries Law is an initial proof to suspect a fishery crime committed by a foreign vessel in which the foreign vessel clearly captures and or transports fish in the Territorial Waters and Fisheries of the Republic of Indonesia (TWFRI) without permission. Furthermore, in the explanation of the article, it is also stated that the action is only done if the investigator and/or fishery supervisor believe that the foreign vessels really have committed a fishery crime. Such a thing is very understandable because an investigator, in carrying out his duties, has a guideline or rule of law that must be obeyed. The guideline is in the form of applicable legislation to regulate what an investigator performs and how he performs the tasks in investigation

The vessel-sinking policy is aimed to demonstrate the firmness and dignity of Indonesian government in protecting its natural resources in its territory, and its sovereignty by applying a deterrent effect, and securing the sea from looting by foreigners, as well as to take a concrete action in an attempt to translate the vision of being a central maritime axis intensified by the government in the past year, especially with regard to full sovereignty at sea. The government of Indonesia has stated explicitly that it will combat illegal fishing in the fishery management territory of the Republic of Indonesia.

4. Conclusions

According to the analysis and discussion based on the theoretical above, the following two conclusions were drawn in accordance with the raised issues: The policy of sinking a foreign-flagged vessel in IUU fishing is part of an effort to increase the deterrent or repellent effect of regional offenses that could harm and threaten the sovereignty of Indonesia. Although the regulations on vessel-sinking action have been in place since 2009, the socialization of the regulation has been under-done by the government both at home and abroad through Indonesian embassies in countries, especially those bordering Indonesia. Furthermore, the Indonesian government's policy of sinking a foreign-flagged vessel conducting IUU fishing is regulated in Law Number 45 of 2009 on Fisheries and is internationally allowed with certain restrictions under the provisions of Article 73 paragraph (3) of UNCLOS.

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