

No Turning Back

Despite official legislation, Indonesia is yet to institute processes to curb illegal, unreported and unregulated (IUU) fishing

“We have far too long turned our back on the seas, the oceans, the straits and the bays. It’s time to restore everything so that Jalesveva Jayamahe, a slogan used by our ancestors, will echo again.”

—Ir. Jokowi, the President of Indonesia, at his presidential inauguration

The public in Indonesia was surprised by the investigation of the Associated Press into the enslavement of hundreds of foreign nationals in Indonesia. In remote Benjina, in the Maluku Islands, PT Benjina Resources enslaved people who work up to 22 hours per day with no days off, locked up and forced to drink dirty water. The produce from PT Benjina Resources is sent to Thailand, from where it spreads out into international trade via seafood retailers in the US, Asia and Europe. These illegal fish catches are sold to either restaurants or as pet food.

In May 2015, the Indonesian government repatriated 659 workers of PT Pusaka Benjina Resources, comprising 419 Thais, 202 Burmese and 38 Cambodians. Five years before the Benjina case became public, the Supreme Audit Agency on 19 March 2009 published a report on licensing, non-tax revenues, processing and control of fishing for the period 2007–2009. The report reveals violations in industrial relations, including the fact that there are 98 vessels that employ foreign nationals.

In 2014 *MV Hai Fa*, a freighter vessel of 4,306 GT (gross tonnes) linked up with PT Avona Mina Lestari to transport fish to China. *MV Hai Fa* transported as much as 800,658 kg of frozen shrimp, valued at 70 bn Indonesian rupiahs (INR). *MV Hai Fa* also carried 15,000 kg of

oceanic whitetail sharks (*Carcharhinus longimanus*) and hammerhead sharks.

Nonetheless, the captain of *MV Hai Fa* was prosecuted merely for violation of rules related to trade in prohibited fish species and charged with a fine of 200 mn INR and a six-month imprisonment. *MV Hai Fa* was a Panamanian-flagged vessel captained by foreign nationals, whose operation in the waters of Indonesia is a violation of law. *MV Hai Fa* also violated many other rules and regulations (see table below).

Table 1: Violations by *MV Hai Fa*

Article	Provision	Sanction
Article 16 para (1), Fisheries Act	Ban on selling harmful fish, and endangering fish resources and the environment.	Imprisonment of six years and maximum fine of INR 1,500,000,000
Article 29 para (1), Fisheries Act	Only citizens of the Republic of Indonesia or other legal Indonesian entities can operate in the fisheries of Indonesia.	None
Article 35A para (1), Fisheries Act	It is compulsory for the captain and crew of the vessel to be of Indonesian nationality.	None
Article 41 para (3), Fisheries Act	It is compulsory to land the fish catch in assigned or designated ports.	None
Article 41 para (4), Fisheries Act	The fish catches should be loaded and unloaded in the assigned or designated ports.	None
Article 21 Para (2), Conservation of Natural Resources and Ecosystems Act	Fishing of oceanic whitetail sharks and hammerhead sharks is prohibited.	Imprisonment of five years and a fine of INR 100,000,000

There are three modes of illegal, unreported and unregulated (IUU) fishing in Indonesia. The first is the illegal use of foreign nationals as crew. The second is manipulation of permits for vessels, including those related to tonnage. The third is violation of provisions for landing and processing of fishery products.

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Indonesia comprises 13,466 islands with the total area for fisheries, including the exclusive economic zone (EEZ) and the continental shelf, amounting to 6.32 mn sq. km. The land area is 1.91 mn sq. km. Fisheries resources are regulated under Article 33, Para (3) of the constitution, which states: “The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people”.

It is estimated that there are 5,400 foreign fishing vessels operating illegally in the sea of Indonesia. Each year one to two mn tonnes of fish are stolen, landed and traded illegally. The foreign vessels that fish illegally come from the following six ASEAN countries, namely, Thailand, Philippines, Vietnam, Malaysia, Cambodia and Myanmar), and from the following non-ASEAN countries, namely, China, Korea, Taiwan and Panama. Most of the illegal fishing occurs in eighteen locations to the west and thirteen to the east.

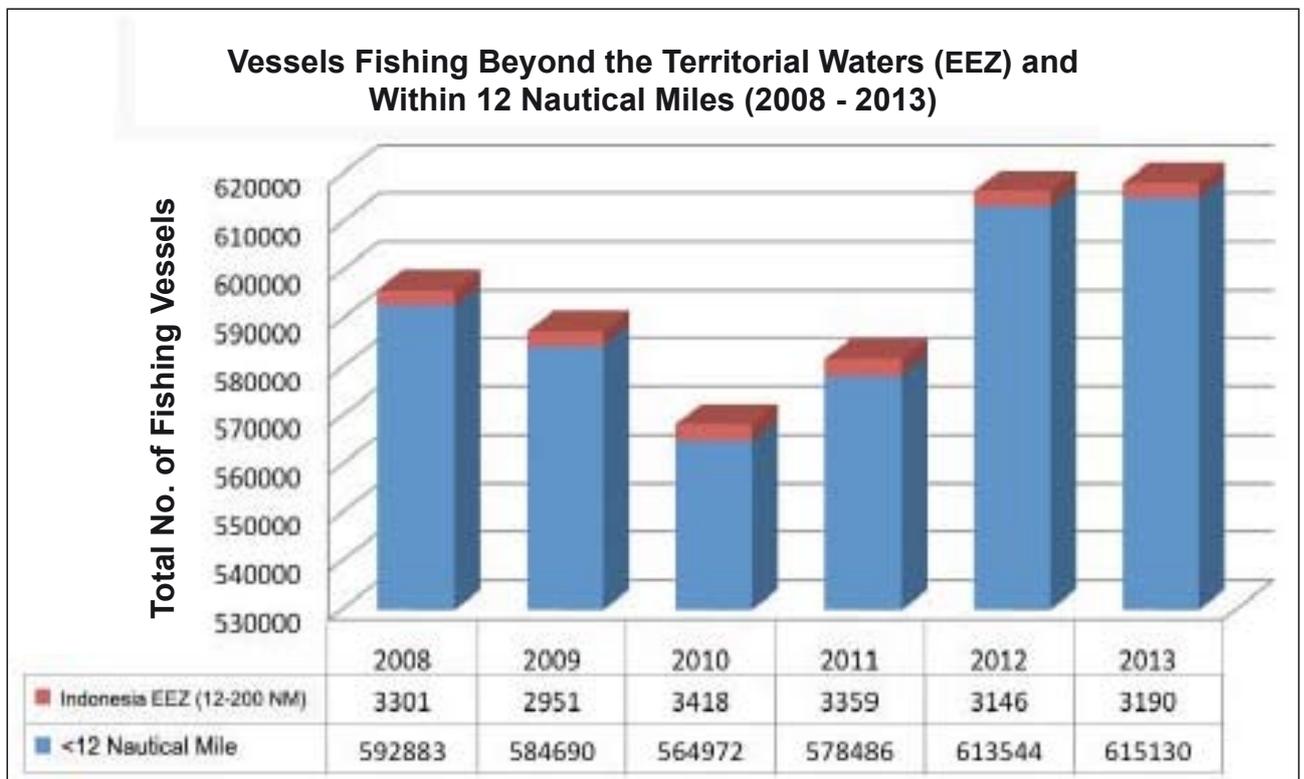
In 2011 the Minister of Marine Affairs and Fisheries identified Indonesia’s annual potential fish catch

at 6.5 mn tonnes. However, considering the level of overfishing, this seems to be an underestimate. At present, there are 615,130 vessels with permits to fish in the waters below 12 nautical miles and 3,190 with permits to fish in the EEZ.

In the past, Indonesia suffered from a large imbalance in overall socioeconomic development, including in fisheries. Of the total of 1,375 fishing ports, 68 per cent were in western Indonesia, while 25 per cent were in the central region and only seven per cent in eastern Indonesia.

However, under the new Indonesia fisheries act, fishing industry operations can be conducted in the Republic of Indonesia only by its citizens. Exceptions are allowed for foreign entities engaged in fishing in the EEZ, subject to provisions of Article 62.2 of the United Nations Convention on the Law of the Sea (UNCLOS), 1982. Indonesia-flagged vessels are allowed to go fishing in the sea waters of Indonesia, including in the EEZ, but foreign-flagged vessels can fish in the EEZ provided they have licenses.

Figure 1. Distribution of fishing vessels: 2008-2013



Source: KNTI (2014)

Indonesian regulations on foreign investment adopt the negative list system with licences or permission required for foreigners. Under the Presidential Regulation No. 39 of 2014, foreign investment in fisheries in the EEZ is permitted only for those who use fishing vessels of 100 GT or more. There are three principal permits needed to operate in Indonesia’s fisheries—the fishery business licence for fisheries and aquaculture, the fishing license and the fishery transport business licence.

Foreign-flagged vessels caught for illegal fishing may be subject to severe penalties, including the sinking of the vessel. Indonesian-flagged vessels are required to engage captains and crew of Indonesian nationality. Foreign-flagged vessels that fish in the EEZ should have a minimum of 70 per cent Indonesian citizens as crew.

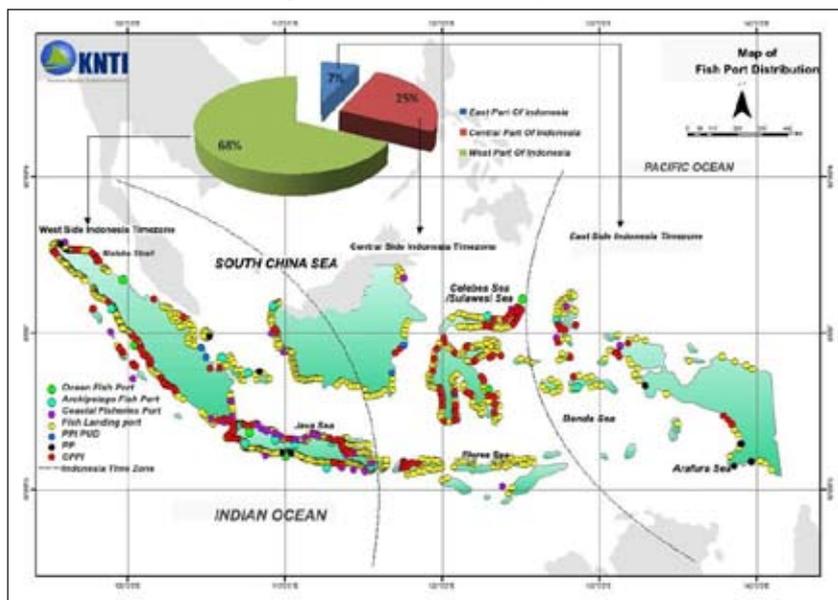
There are several other policies related to IUU fishing in Indonesia, ranging from the prohibition of transshipment at sea, a moratorium on the termination of licensing of vessels built abroad and a ban on trawling in the waters of Indonesia. Violations can attract administrative sanctions such as warnings, suspension and/or revocation of licences.

According to a new regulation of the Minister of Maritime Affairs and Fisheries, those who land above 2,000 tonnes are required to process the catch by building a fish processing unit.

Monitoring, control and surveillance (MCS) activities are covered under the Fisheries Act of 2014, by which the Maritime Security Agency has been replaced by the Maritime Security Coordinating Board, which is a multitasking agency that coordinates with thirteen other government agencies for supervision against IUU fishing.

The fishing vessel registration system in Indonesia is divided sectorally between the Ministry of Transportation and the Ministry of Maritime Affairs and Fisheries. Vessel measurements are regulated by the Ministry of Transportation,

Map: Distribution of Fishing Ports



Source: KNTI, 2014

Table 2: Distribution of Fishing Vessels and Fish Processing Units

Indonesia's EEZ area	No. of companies	No. of vessels	Total gross tonnage	Total production (tonnes)	Existing fish processing units	Permitted fish processing units
Arafura EEZ	54	659	251,591	524,829	15	125
Sulawesi and Pacific Ocean EEZ	31	199	28,931	27,626	6	14
Indian Ocean EEZ	55	187	26,309	42,385	6	13
Indian Ocean EEZ	21	57	13,626	12,822	5	6
South China Sea	26	73	7981	15125	1	3
Total	187	1,175	328438	622787	33	161

Source: KNTI, 2014

Table 3: Results of examinations conducted on vessels by the Ministry of Maritime Affairs and Fisheries

No.	Document details				Physical checks results	
	Name of vessel	Owner	Fishery Permit No. SIPI/SIKPI	GT	GT	
1	<i>Ulang Ulie XI</i>	PT. Arabikatama Khatulistiwa F.I.	17.09.0028.27.22800	24	60	
2	<i>Cilacap Maluku Jaya Enam</i>	PT. Cilacap Samudera F.I.	17.08.0027.27.20169	78	153	
3	<i>Samudera Maluku Jaya Enam</i>	PT. Cilacap Samudera F.I.	15.09.0028.16.22478	60	157	
4	<i>S&T Samudera Jaya 6</i>	PT. S&T Mitra Mina Industri	26.09.0028.03.22648	398	442	

Source: KNTI, 2014

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Home workers and their families in Indonesia. MCS activities will work well only with the involvement of fisherfolk

locals. This problem can be addressed by facilitating the fisherfolks to access the resources so the EEZ will be secured by locals fishers.

In our view in Indonesia, MCS activities will work well only with the involvement of fisherfolk, as per the provisions in the National Fisheries Act (Article 67), needs to be implemented properly and strengthened. 3

while licensing of fishing vessels comes under the Ministry of Maritime Affairs and Fisheries. However, there are complaints that this division leads to manipulation of weight measurement of vessels to evade tax and levies.

Manipulation of the gross weight of fishing vessels is becoming a major source of corruption in the fisheries sector, which is worsened by the division of authority between the central and local governments in issuing permits. Under Law No. 23 of 2014 on Regional Government, regulation of vessels between 5 and 30 GT falls under the authority of the provincial government. According to the findings of the Corruption Eradication Agency, which audited the tax liabilities of vessel owners, of the 1,836 fishery businesses that obtained licences, 632 do not yet have a tax identity number.

According to data from *Kesatuan Nelayan Traditional Indonesia* (KNTI), in 2013 there were 615,130 vessels that fish in waters below 12 nautical miles. The 3,190 vessels that fish in the EEZ could easily deplete the fishery resources which ought to be accessed by the locals. The fishery stock resources in the territorial waters tends to be overfished and overexploited. Meanwhile the 3,190 vessels that fish in the EEZ could easily deplete the fishery resources which ought to be accessed by the

For more

faolex.fao.org/docs/pdf/ins51065.pdf

Law No. 31 of 2004 on fisheries

faolex.fao.org/docs/pdf/ins97600.pdf

Law No. 45 of 2009 and Amendment to Law No. 31 of 2004 on fisheries

bigstory.ap.org/article/b9e0fc7155014ba78e07f1a022d90389/ap-investigation-are-slaves-catching-fish-you-buy

Are slaves catching the fish you buy?

Built on Historic Success

WTO members should build on the recent Nairobi meeting to tackle the urgent challenges facing the WTO in 2016

In his speech at the University of the West Indies in Jamaica on 18 January Azevêdo said WTO members should build on the historic success of the recent Nairobi to tackle the urgent challenges facing the WTO in 2016, including trade negotiations. This is what he said...

Let me explain in a bit more detail what was delivered in Nairobi. The Nairobi Package contained a number of important decisions—including a decision on export competition. This is truly historic. It is the most important reform in international trade rules on agriculture since the creation of the WTO. The elimination of agricultural export subsidies is particularly significant in improving the global trading environment... For many years global trade negotiations yielded few results. But, as you can see, we are changing all that. The WTO has delivered a huge amount over the last few years. We are getting into the habits of success. The WTO's 162 members monitor each other's practices and regulations against those rules in order to improve transparency and avoid protectionism. In Nairobi ministers formally acknowledged their differences about our future work. This was a very significant moment. But, despite those differences, there is some convergence. For example, there is a clear openness to advance negotiations on the remaining Doha issues, and to keep development at the centre of our work. These issues include domestic support and market access for agricultural goods, market access for industrial goods, services, fisheries subsidies, and a number of other areas. So clearly these are important issues, which members want to address through negotiations. The question, given the differences I have mentioned, is how?

At the same time, some members want to explore the possibility of discussing and eventually negotiating on other issues. Certainly, all members believe that the WTO can do more — and that we can do it at a faster pace. So the challenge before us is very significant. It is not limited only to the question of what happens to the Doha issues, it is about the negotiating function of the WTO. It is about what members want for the future of the Organization as a standard and rule-setting body. It has wide systemic implications for trade multilateralism, and for multilateralism at large. And the challenge is urgent.

The world won't wait for the WTO. Other trade deals will keep advancing. The WTO cannot stop delivering. The wider the gap between regional and multilateral disciplines, the worse the trade environment becomes for everyone, particularly businesses, small countries and all those not involved in major regional negotiations. But the outlook is not bleak. I said at the outset that 2016 was full of promise. I truly believe that—because, while we face real challenges, there are also real opportunities before us. The conversation that is already getting underway in Geneva will determine the future direction of global trade negotiations—and the future direction of the WTO. It is an opportunity to find solutions that have long eluded us.

It is an opportunity to ensure that trade delivers more—and that it supports growth and development for all.

So I trust members will rise to this challenge — and seize this opportunity. I have no doubt that Jamaica will play an active and central role in that debate.

Thank you.



*This is excerpted from **Roberto Azevêdo's** speech at the University of West Indies in Jamaica, on 18 January 2016, available at: www.wto.org/english/news_e/spra_e/spra109_e.htm*