

Indonesia's Affiliation with International Fisheries Organization and Its Consequences

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Abstract — International fisheries is a complicated issue and one of the main reason is the fact that terrestrial natural resources are reducing in numbers, thus making marine natural resources, which includes marine fisheries resources, as a cornerstone for development and growth. The growth of population also play a significant role in the increasing demand of marine natural resources, coupled with an improving quality of life. Therefore, coastal states and long distance fishing states are vying to exploit their marine fisheries resources as much as possible.

Keywords: *international fisheries organization, Indonesia affiliation*

I. INTRODUCTION

The complexity of issues regarding fisheries, highlighted by several factors, are the reason that change is needed in its management. One of the most significant factor faced by nations is not only the fact that natural resources are getting scarce, but also the number of conflicts faced by different nations due to fisheries issue, most notably due to territorial boundaries of adjacent, coastal nations. There is also an issue caused by the the very jurisdiction of a coastal nation directly connected with open ocean, in regards to the available natural fisheries resources within it.

Indonesia, as a tropical country with two-thirds of its territory consists of the sea and directly adjacent to open ocean, is faced with issues relating to the natural fisheries resources available in areas within its territorial jurisdiction, as well as outside of its sovereign and jurisdictional territory. This is related to efforts to synergize the natural fisheries resources available within it, namely the *demersa* [1] and *pelagis*[1] fish types.

In relation to the types of fisheries resources that have a 'fugitive' and 'transnational' characteristics and in marine ecosystem life, the damage of one ecosystem will have an impact on other ecosystem elsewhere. It can also be translated as today's globalization, with regards to the efforts of preserving natural resources, that should be the main concern of all countries and all elements of the nation.

Developing a national order on a global or regional regulatory level would need to be set and established in an international organization. Thus, it can be stated that International Organization is a container, aiming to solve issues with regards to common interest.

International Organisations[2] play a pivotal role in developing international law. There are several important questions to ask: how is relationship between developing countries with International Organisations? And more specifically for developing countries, and in this case Indonesia, what is its affiliation with International Fisheries Organisation?

II. DISCUSSION

Essentially, when a nation becomes affiliated with an international organisation, there needs to be an assessment as to whether it will be beneficial. This is due to the fact that international organisation can serve as a platform for a nation to reach its national interest. There are several ways of describing national interest, as stated by Sri Setianingsih Suwardi, national interest consists of a nation's political and economical interest, and also based on solidarity and common interest of

protecting the nation from threats.[2] It seems to be that Indonesia's affiliation with regional international organisation regarding marine resources and fisheries are more inclined towards the common interest of protection from threat, other than political and economical interests.

High level of demand of protein from fish, in line with the ever-increasing production level could yield to scarcity of marine fisheries resources themselves. This arguemnt is supported by an FAO report regarding the occurance of fluctuations in marine fisheries production figures between 1990 – 2006. In 2000, its production reached its highest peak of 86.8 million ton, and in the following year it can be seen that there was a decreasing trend of production and continued to decline until 2006 when production numbers hit 81.9 million ton[3]

It can be seen that the trends pointed to a potential scenario of scarcity of marine fisheries resources. This triggered and alerted the public, and forces the public to seek and take actions aimed at the preservation of marine fisheries resources.

At the end of 1980, the UN established the World Commission on Environment and Development to formulate the direction of development needed, which now refer to sustainable development. The terminology of sustainable development was popular through Our Common Future in 1987[4]. The demand to implement sustainable development led to the initiation of the Earth Summit in Rio de Janeiro in Brazil, 1992.

In the Earth Summit, discussion regarding the efforts to reduce overfishing was conducted and feedback from the International Fishereis Conference which was held in Cancun, Mexico, was received. Both the Earh Summit and the International Fisheries Conference have encouraged the FAO to develop guidelines for fish-producing nations to implement sustainable fisheries management, for the sake of the future generation. This would later be known as the Code of Conduct for Responsible Fisheries 1995 (CCRF)[5] or Responsible Fisheries Management.

CCRF can be utilised as international

guidance involving both member and non-member countries, international organisation and everyone involved in fisheries activities, in formulating actions related to management, exploitation, and conservation, as well as processing and marketing the finished product.[5] This international guidance is based on general principles, as stated in Article 6 of CCRF.

Participating countries should work together for the conservation of marine fisheries resources and to enact responsible fishing methods, as clearly stated in the CCRF. This is of particular importance, bearing in mind that some species of fish migrate, either for limited range (straddling fish stock), across national territorial waters (transboundary), or even further (migratory species). The availability of these types of fish is heavily influenced by the actions of related, participating countries, as this can be considered as a collective problem that would need a collective solution. Therefore, it is important to formulate relevant laws/regulations as the basis of partnership and international collaboration, guided by a sense of collective responsibility to ensure a stable population of marine fisheries resources.

Eventhough UNCLOS 1982 had specifically regulated the types of fish with specific migratory traits, which includes straddling fish stocks and highly migratory fish stocks,[5] the implementation of such regulation in Article 63 and 64 of UNCLOS 1982 only covers resources within an EEZ and does not include the management and conservation of marine fisheries resources along the migratory lines of those types of fish, and does not belong under the jurisdiction of coastal nations, without violating the rights of those coastal nations. To solve for the lack of regulation within the migratory lines of straddling fish stocks and highly migratory fish stocks, 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[6] was developed.

As a direct implementation 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, the Regional Fisheries Management Organizations (RFMO) was developed and initiated for several areas of which different regulations for the management of marine fisheries resources existed.

The development of RFMO was also based on the FAO report which suggested that the production of international marine fisheries increased significantly from 19.3million ton in 1950 to 100 million ton in 1989 and 143.6 million ton in 2006. Furthermore, the FAO report also suggested that, overfishing occurred with 3% underexploited, 20% moderately exploited, 52 % fully exploited, 17 % overexploited, and 1% recovering from depletion.[3]

In relation to a sustainable and fair use of marine fisheries resources, Indonesia, which EEZ is adjacent to international waters, had made the decision to become members of two RFMO for international waters directly adjacent to its territorial water. The two RFMO are Indian Ocean Tuna Commission (IOTC)[7] and Convention for The Conservation of Southern Bluefin Tuna (CCSBT)[8].

IOTC and CCSBT are two RFMOs adjacent with Indonesian territorial waters. Indonesia's involvement with IOTC and CCSBT is based on international regulation and globalization issue of marine fisheries resources.

Under IOTC and CCSBT, it can be seen that management of marine fisheries resources is an issue of international politics. For instance, Indonesia, which has its territorial water directly adjacent to CCSBT and IOTC and are a spawning ground for Southern Bluefin Tuna and has the rights for those Bluefin Tuna, is less dominant compared to Japan, a country which does not have a direct access to CCSBT or IOTC waters.[9]

For Indonesia, international norms and its own participation with regional organizations can contribute to the decision-making efforts related to the management and conservation of marine fisheries resources within its own EEZ. Keeping in mind that the initiation of UNCLOS 1982 made the area of Indonesia's EEZ even larger and the biggest percentage of commercial fishing is conducted within the EEZ.

Further consequences can be seen from Part 5 of UNCLOS 1982. Based on the regulation it can be seen that sovereign rights of coastal state are as followed:

1. Determining the Total Allowable Catch (TAC) and ensuring the sustainability of natural resources contained therein in a preserved state and not endangered by excessive exploitation.
2. Determining National Capacity to Harvest (NCH) within its EEZ.
3. Seeks to optimally utilize natural resources contained in its EEZ.
4. In relation to the previous points above, if the coastal state does not have the capability to fully utilise and capture all its Total Allowable Catch (TAC), the coastal state may permit other countries to utilise the remaining marine fisheries resources available.

It can be seen in Article 62 of UNCLOS 1982 that it also regulates the involvement of countries in other country / coastal states' EEZ if the coastal state does not have the ability to utilise all available catches as stipulated in the TAC on its EEZ. The coastal state must therefore allow other country to utilise the remaining marine fisheries resources available, surplus to the coastal state's fishing capacity. The participation of other country is governed by an agreement or an arrangement according to the provisions implemented in the laws of the coastal state. Thus, determining whether or not other country can participate and utilise the surplus resources depends on the coastal state itself. In essence, access to the surplus of marine fish resources

depends on the policy and regulation of the related coastal state, taking into account the importance of fish resources for national economic interests of the coastal state.

The provisions of the coastal state legislation include arrangements and regulations of which species of fish can be caught, the catch quotas, the fishing seasons and fishing grounds, including technical aspects such as the type and size of fishing gear used, as well as the type and number of fishing vessels allowed. In addition, the determination of the age and size of the fish that can be caught, as well as all the required information that would need to be provided by the fishing vessels, and related provisions for training purposes. Included within is the authority of the coastal state to regulate the dismantling of all or part of the fishing facilities in the ports of the coastal state's region. Also included is the authority to formulate terms and conditions concerning joint ventures or arrangements for other forms of cooperation, training and transfer of technology and law enforcement procedures related to the industry.

Article 69 of UNCLOS on the rights for Land Locked States/coast-less states for the surplus of natural resources within a coastal state's EEZ within the same region or sub-region, and Article 70 of UNCLOS on the rights of GDS for the surplus of natural resources within a coastal state's EEZ in the region or sub-region, are in principle based on the coastal states themselves, as the exercise of such rights depend on the availability of surplus resources from TAC and NCH fisheries related business. Therefore, in order to maintain the availability of surplus natural resources, or to avoid the situation where a coastal state might reach a point of successfully utilising all available resources from its TAC, a coastal state should cooperate with other countries on establishing an Equitable Arrangement. Such Equitable Arrangement is aimed at keeping the Land Locked States / GDS to still be allowed to participate in the utilisation of fisheries resources in a coastal state's EEZ and in a state of mutual agreement.

Based on the principle of justice, the two articles also differentiate the rights of the utilisation of surplus natural resources in a developing coastal states aimed for developing GDS, and subsequently the utilisation of surplus natural resources in a developed coastal states, aimed for developed GDS as well, within the same region or sub-region.

III. CONCLUSION

Fisheries related problems in Indonesia are becoming more complex and taking the attention of policy makers of this country. Efforts to save the nation from international pressure must be conducted with immediate effect. Therefore, Indonesian Government must be able to fix and manage its fisheries related regulatory system, especially on marine fisheries resources directly related to the high-seas.

Optimum utilisation of fisheries resources within an EEZ is always the main target, however, the rights possessed by Land Locked States and the GDS obtain a special arrangement in the utilisation of surplus of fish resources in EEZ. Regarding the right to access the surplus resources provided in Article 62 of UNCLOS 1982, this has to do with Article 69 and Article 70 of UNLCOS 1982 on the rights of Land Locked States and GDS within the same region to participate in utilizing the surplus of fish resources in EEZ

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