

Implementation of Countermeasures Effort of Illegal Fishing in Indonesia (Case Study on Sinking the FV Viking Vessel)

Muhammad Insan Tarigan

Muhammad Insan Tarigan
Department of International Law, Faculty of Law, Universitas Surabaya (UBAYA)
✉ insantarigan02@gmail.com

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Abstract

Geographically almost 70% of Indonesian territory consists of waters that potentially storing an amazing wealth of the sea, and the biggest is on fisheries sector. Illegal fishing that was done by foreign vessels in Indonesian territorial waters was estimated giving loss to Indonesia around 1 million ton/year (Rp 30 trillion/year). Indonesian government has decided to take policy in doing sinking illegal fishing vessels for the actors of illegal fishing in Indonesia. How is the relevance of international law with the law on sinking foreign vessels in Indonesia and the implementation on the regulation of sinking FV Viking Vessel. The research on this paper is normative legal research, and research method library research also documenter not only to the primary sources but also to secondary sources that related with the problem on this research. After the identification and classification process, the problem will be normatively analyzed using the data. Illegal fishing is not only affecting the economy aspect but also affecting the other aspects, such as state sovereignty, social, as well as environmental of the sea. The law of sinking illegal fishing vessels is not contradicting and still considered relevant with International law, either UNCLOS 1982, IPOA-IUU Fishing or CCRF. An FV Viking vessel was caught by TNI AL working with Norwegian Interpol at Indonesian ZEE. FV Viking vessel was entering to Indonesian territory without doing the obligation to reporting their identity and the navigation data. Moreover, this vessel does not have the License on Fishing. The sinking vessel is better not using the bombing method but using the method of burning the vessels with oil fuels thus it will be more cost saving. Sinking illegal fishing vessels is supposed to be done after there is a judgment from the court.

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INTRODUCTION

INDONESIA is the largest archipelagic country in the world, with 2/3 of its territory being a marine area, with approximately 17,504 islands and 81,000 km long coastline (Ariadno 2007: 129). Indonesia's marine width reaches 5.8 million km², with the length of Indonesia's coastline reaching 95,181 km and

5.8 million km² of water area, and has been claimed by the world has 17,500 islands, not optimally utilized, nor shallow oceans covering an area of 24 million hectares and a bay of 4.1 million hectares is still wasted (Sambo 2010: 1). The vast territory of Indonesian waters certainly has the potential of marine resources that are so large, both biological and non-biological resources are stored from Inland Water to Exclusive Economic Zone (ZEE).

As an archipelagic country, Indonesia is one of the most beneficiaries of the United Nations Convention on Law of the Sea (UNCLOS) or the UN Convention on the Law of the Sea of 1982. UNCLOS 1982 gave birth to eight jurisdictions of the sea: internal waters; archipelagic waters including the straits used for international shipping; territorial waters; contiguous waters; exclusive economic zone; the continental shelf; high seas; and international sea-bed area.

Geographically, almost 70 percent (70 percent) of Indonesia is a very potential water reserve of marine wealth is extraordinary, ranging from potential fisheries, marine industry, marine services, transportation, to marine tourism. The Potential of Sustainable Fish Resources (SDI) reaches 6,520,100 tons per year. Consists of 50,875 km² of coral reefs or approximately (14 to) 18% of the world's total coral reefs, with hard coral species reaching 590 species. Has a mangrove area of not less than 4.25 million ha and has 89 species of plants. Of the 71 species of true mangrove in the world, Indonesia has about 43 types of true mangroves. Indonesia is the country with the largest mangrove area (19%) and the highest total mangrove species (61%) in the world. It has a total area of 30,000 sq. Km of sea-grasses and of about 60 species of known sea-grasses in the world, Indonesia has about 13 species. It has about 32 species of 87 species of marine mammals from whales, dolphins and dugongs of the world, including Blue Whales (*Balaenopterus musculus*) currently endangered under the IUCN Redlist category. It has 157 of 596 species of sharks and rays of the world, including sharks known as the world's largest marine species, the Whale Shark (*Rhincodontypus*) and two charismatic rays, the Manta Oceanic Pari (*Mantabirostris*) and Pari Manta Karang (*Mantaalfredi*). It has 6 of 7 species of turtles in the world's oceans, including leatherback turtles (*Derm ochelyscoriacea*) known as oceanic sea reptile species, this information excerpted from the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia (Jaelani 2014).

he potential of biological resources and non-biological resources that exist at sea at its greatest potential is fishery. In addition to the greatest resource potential, fisheries as an object of exploitation and exploration are the most significant improvements. But in addition to potential, sea fishery exploration activities are also followed by fishery crime activities that are very detrimental to Indonesia (Sunyowati 2014). According to the Food and Agriculture Organization (FAO)¹, fishing crime activities are called Illegal, Unregulated, and Unreported Fishing (IUU-Fishing), meaning that fishing is

¹ FAO-IUU Fishing on Code of Conduct For Responsible Fisheries, 1995

illegal, unreported and incompatible with defined rules. Indonesian fishery resources recognized as one of the economic incomes for the nation is disturbed by the existence of illegal fishing.

Based on data from the Ministry of Marine Fisheries 3 there are 14 fishing ground zones in the world, currently only 2 potential zones, and one of them is in Indonesian waters (Sihotang 2006: 58). Indonesia's potential and IUU Fishing potential zones are the Malacca Sea, the Java Sea, the Arafuru Sea, the Timor Sea, the Banda Sea and the Waters around Maluku and Papua. The illegal fishing action by Sunyowati (2014) is an act of forgery of documents, winning fish with a net forbidden, using explosive bombings, using unlicensed foreign crew. Considering this condition, IUU Fishing can weaken the management of fishery resources in Indonesian waters and cause some fishery resources in some fisheries management areas (WPP) of Indonesia to over fishing.

The problems that make illegal fishing difficult to stop, according to Amir (2013) are legal uncertainty, different legal understanding, inconsistency, discrimination against the execution of punishment, conspiracy between the parties concerned. The theft of fish by foreign ships from the Indonesian marine area is estimated to cost the country 1 million tons per year (Rp 30 trillion per year). The ships come from various countries, such as Thailand, Vietnam, Malaysia, China, Philippines, Taiwan and South Korea. The FAO stated that the current stock of fish resources in the world which still allows for increased capture is only 20 percent, while 55 percent are in full utilization condition and the remaining 25 percent are in danger of sustainability (Sunyowati 2014: 3).

Illegal fishing is not only detrimental to the economy with the value of trillions of rupiah lost, but also destroyed the fishermen's economy. It also has a political impact on inter-state relations side by side, violating the sovereignty of the state and threats to the preservation of marine biological resources. Acts that violate state sovereignty and threats to the preservation of marine biological resources or activities related to fisheries are acts that harm the peace, order or security of a country. This act has been regulated in the United Nations Convention on The Law of the Sea 1982 (Parthiana 2014: 107-108).

The extent of Indonesia's marine territory is increasingly recognized that the sea in addition to functioning as a liaison area with one another region also contains the potential of natural resources are very abundant. This then makes Indonesia more extra in maintaining its sovereignty in the waters, so foreign ships that intend to steal information and marine resources can be overcome (Lestari 2012: 63). The actions of foreign fishing vessels that enter the territorial waters of Indonesia without permits and exploit the natural wealth in it would violate the sovereignty of the state of Indonesia. For that there must be firm or decisive law enforcement in the form of catching foreign fishermen and their ships to be processed legally. The capture of foreign fishing vessels may be justified if it has fulfilled the evidence that the fishing

vessel is conducting illegal fishing. Maintaining natural resources in the territory of sovereignty in the territorial sea and sovereign rights is the authority of a country to a certain region in which the implementation of Indonesia must be subject to the laws of the international community (Murdiansyah 2009: 54).

Illegal fishing actions that often occur in the territorial waters of Indonesia make the Indonesian government cannot stay silent and have to find a solution to these harmful actions. One of the solutions taken by the Indonesian government is the act of sinking the ship by blasting. The aim of the sinking of foreign fishing vessels is to provide a deterrent effect and demonstrate the firmness of the government's stance in bringing about sustainable and responsible fisheries. On 26 February 2016 the FV Viking ship was captured in the Exclusive Economic Zone (ZEE) 12.7 miles from Tanjung Uban, Bintan, Riau Province. This ship entered into Indonesia without carrying out the reporting obligations of identity and shipping data as regulated in Law No. 17 of 2008 on Shipping (Fajriah 2016).

In addition, in fact it was argued that the Viking FV ship size of 1.322 GT is a ship with no nationality that has long been conducting illegal fishing activities in various parts of the world. By the South Coast Fisheries Management Organization (RFMO) called Antarctic Marine Living Resources (CCAMLR), the ship is categorized as a ship perpetrator of illegal fishing. However, the steps taken by the Jokowi-JK government are considered quite controversial by carrying out the actions of burning, bombing, shooting, and drowning of foreign fishing vessels that violate Indonesian sovereignty. If the action is considered shock therapy, it is only temporary. In a long time must be done in accordance with international law. So this article will focus on the relevance of international law with the act of sinking foreign ship perpetrators of illegal fishing in Indonesia, as well as see the implementation of ship drowning arrangements against FV Viking as the perpetrators of illegal fishing in Indonesia.

THE IMPACTS OF ILLEGAL FISHING IN INDONESIA

ILLEGAL practice, Unreported and Unregulated Fishing (IUU Fishing) is an organized and transnational criminal act that has clearly caused serious damage to Indonesia and other countries in the Asia Pacific region. In addition to economic, social and ecological disadvantages, this practice is an act that undermines the sovereignty of a nation's territory. Even war against IUU Fishing was discussed together in October 2010 and Indonesia with 21 countries joined in Asia-Pacific Economic Development (APEC) has agreed to more vigorous in fighting and overcoming illegal fishing. The agreement is

included in the Paracas Declaration which is the result of the APEC Marine Ministers Meeting in Paracas, Peru.²

The impact of illegal fishing almost touches all aspects of social life such as environment, social, economic, and violation of state sovereignty. So it makes it a serious challenge for the coastal countries. Illegal fishing action occurs in almost all parts of the world. Illegal fishing is a well-organized fishery crime, starting from national to international level. Today, illegal fishing has changed the way it operates when compared to how it operated in the mid-1990s. The illegal fishing act has become a highly sophisticated form of transnational organized crime, with features such as modern ship movement control and modern equipment, including a tank to refuel at sea (Wasundari 2015: 31-32).

Illegal fishing action has not been a transnational issue formulated by the United Nations (UN). But de facto, this issue has become the concern of world and regional organizations as one of the organized crimes that harm the state and threaten the sustainability of fishery resources. Therefore a special arrangement is needed in order to tackle this illegal act. One of the international organizations governing this issue is the Food and Agriculture Organization (FAO).

The explosion of fish theft is explicitly the Director General of Food and Agricultural Organization (FAO) Jose Graziano da Silva, said illegal fishing is one of the most difficult issues to be addressed as well as the attention of many countries in the world that rely on the fishery sector. "The most difficult thing we do is identify their boats and find ways to get them to justice. We must make them accountable, especially when they go to sea in the international sea territories."³

Da Silva emphasized that illegal fishing is one of the concerns of FAO. For this purpose, the UN agency has cooperated with several countries, including Indonesia in handling illegal fishing. One of them is in the agreement signed today, where FAO will provide support in the form of training and capacity building. In 2013, KKP and FAO will conduct a number of workshops related to fishing and fishermen welfare. In addition there will also be a 3-year program that began in 2013, namely Technical Cooperation Program on Development of Preventive Animal Protection Plan and Enhancing Emergency Response Capacity to Shrimp Disease Outbreak in Indonesia, and The CTF's partnership with FAO has been going on since 2007.⁴

FAO has placed and formulated illegal fishing actions into the provisions of the Code of Conduct for Responsible Fisheries (Code of Conduct). This provision concerns aspects of ecosystem sustainability and fishery resources contained therein. Understanding illegal fishing refers to the

² Statistic and Information Data Center, FAO, *Illegal Fishing Menjadi Masalah Banyak Negara*, Ministry of Marine Affairs and Fisheries, Jakarta, 2013

³ *Ibid.*

⁴ *Ibid.*

understanding issued by the International Plan of Action (IPOA) 2001 initiated by the Food Agriculture Organization (FAO) in the context of implementing the Code of Conduct for Responsible Fisheries (CCRF). Understanding Illegal Fishing is described as follows:⁵

1. Any fishing activity carried out by a particular country or a foreign ship in waters which is not its jurisdiction without the consent of a country having jurisdiction or fishing activities is contrary to the laws and regulations of that country.
2. Fishing activities undertaken by fishing vessels with flags of one of the countries joined as members of the regional fisheries management organization (RFMO) but the operation of their vessels is contrary to the conservation and fisheries management measures that have been adopted by RFMO. RFMO countries are required to follow the established rules or other rules relating to International Law.
3. Fishing activities that are contrary to the laws of a country or international provisions, including those established by the RFMO member countries.

Although IPOA-FAO Fishing has given limits to the notion of illegal fishing, in a simpler and operational sense, illegal fishing can be interpreted as illegal fishing activities. Illegal fishing not only violates international law, but national law is also violated. So in tackling illegal fishing practices should also be based on the legal system.

THE RELEVANCE OF INTERNATIONAL LAWS WITH THE SINKING DESTRUCTION POLICY IN INDONESIA

EFFORTS that have been made by the Indonesian government to fight illegal fishing practices, such as cooperation with the FAO is still not enough to provide a deterrent effect on the perpetrators of illegal fishing. The government through the Ministry of Marine Affairs and Fisheries (KKP) is still working and not at all retroactively to keep fighting crime in the sea of Indonesia. Even during the year 2012 and then, KKP has managed to capture and examine as many as 4226 fishing vessels. Of these, the vessel captured a total of 112 fishing vessels allegedly committing an offense, 70 were foreign fishing vessels and 42 Indonesian fishing boats. Even during the past 8 years, the CTF has successfully examined 20,064 fishing vessels. Of that amount which has been followed up to the legal process reaches 714 vessels, while, fishing boats from Indonesia who allegedly conducted IUU fishing for 563

⁵ Section II *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing*, Food And Agriculture Organization of The United Nations, Rome, 2001.

ships. The successful operation of this CTF is proof that the activity of fish theft by foreign fishing vessels in Indonesian waters is still quite common.⁶

During the reign of President Joko Widodo, efforts to combat illegal fishing became a new phase. The Government of Indonesia's policy of President Jokowi to expressly define foreign vessels that have stolen fish in Indonesian waters reaped various reactions during recent times. This policy is supported by some circles as a form of assertiveness of the Government of Indonesia in maintaining the sovereignty of the nation. For example, Foreign Minister Retno Marsudi said that this decisive action should be done as a state effort to enforce law enforcement without being purchased, further stating that this action is a starting point for Indonesia to be respected by other nations. It is also supported by the Minister of Marine Affairs and Fisheries Susi Pudjiastuti who emphasized that the sovereignty of the state is a thing that must be maintained in any way that is needed (Setyawan 2011).

The special act of drowning foreign vessels by Indonesia in recent times is actually not new because the rules concerning such actions have been listed since 2009 in the Law on Fisheries (Act of the Republic of Indonesia Number 45 Year 2009 on Fisheries, 2009) where Article 69 paragraph 4 of the Act states that:

In performing the functions referred to in paragraph (1) the fishery investigator and/or supervisor may take special action in the form of burning and/or sinking of a foreign flagged fishing vessel on the basis of sufficient initial evidence.

The authority for special action of sinking of the vessel is held by a supervisory vessel, as set forth in Article 69 paragraph (1), which functions to exercise supervision and law enforcement in the field of fishery in the territory of fisheries management of the Republic of Indonesia. Specific conduct of sinking of foreign ships may be carried out if there is sufficient preliminary evidence, meaning that the initial evidence to suspect a criminal offense in the field of fisheries by a foreign-flagged fishing vessel, for example a foreign flag fishing vessel does not have SIPI and SIKPI, and clearly captures and / or transporting fish when entering the fishery management area of the Republic of Indonesia. This provision indicates that such special measures cannot be carried out arbitrarily, but only when a fishery investigator and/or supervisor convinced that the foreign flag vessel is actually committing a criminal offense in the field of fisheries.

The United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) does not govern Illegal, Unreported and Unregulated Fishing (IUU Fishing), but regulates general law enforcement in the territorial sea and ZEE of a country. If a violation of the coastal state legislation takes place in the territorial sea or inland waters of a country, it includes a violation

⁶ Statistic and Information Data Center, FAO, *op.cit.*

of the sovereignty granted by Article 2 of UNCLOS 1982. The coastal State may enforce its law and even its criminal law against such vessels only if the offense has an impact for the coastal state or disturbing the security of the coastal state. However, if the elements mentioned in Article 27 paragraph 1 of UNCLOS 1982 are not met, the coastal state cannot apply its criminal jurisdiction to the vessel. The elements contained in Article 27 paragraph (1) UNCLOS 1982 stated that, criminal jurisdiction of The Coastal State cannot be exercised aboard a foreign ship crossing the territorial sea to arrest anyone or to conduct an investigation relating to any offense committed on board during such traffic, except in the case of the following:

- a) if the consequences of the crime are felt in the coastal State;
- b) if the offense belongs to the type that interferes with the peace of the State or of maritime territorial order;
- c) if it has been requested of local ruler assistance by the ship's captain by a diplomatic representative or consular official of the flag State; or
- d) if such action is necessary to combat illicit drug trafficking or psychotropic substances

Based on the general provisions of Law No. 45 of 2009 concerning Fisheries that the existence of excessive fishing phenomenon, fish theft, and other illegal fishing activities that not only cause harm to the state, but also threaten the interests of fishermen and fish-farmers, industry climate, and national fishery business. The problem must be solved seriously, so law enforcement in fishery becomes very important and strategic in order to support fishery development in a controlled and sustainable way. The existence of legal certainty is a condition that is absolutely necessary in the handling of criminal acts in the field of fisheries. Illegal fishing is a crime for the state of Indonesia, so this then makes illegal fishing has fulfilled the element of Article 27 paragraph (1) UNCLOS 1982. Thus, the Indonesian government can enact Indonesian law against illegal fishing vessels including vessel sinking.

Article 27 paragraph 5 of UNCLOS 1982 further refers to Chapter V on ZEE in the case of violations of coastal state legislation relating to the exploration and exploitation of fisheries resources. This is different if violations occur in ZEE, particularly violations of exploration activities and exploitation of fisheries resources. Article 73 of UNCLOS 1982 stated that if a foreign ship does not comply with the laws of the coastal state in terms of conservation of fishery resources, the coastal state may make the capture of the vessel. However, the vessel and its captured crew shall immediately be released with a reasonable bond given to the coastal state. The punishment of the foreign ship may not be in the form of corporal punishment, namely prison. This is because in ZEE, the coastal state has only sovereign rights and not sovereignty. Under the provisions of Article 73 of UNCLOS 1982 emphasized that the policy of sinking a ship in Indonesia is reasonable and not contrary to international law.

The sinking of the ship is also not strictly regulated by the International Plan of Action to Prevent, Unreported and Unregulated Fishing 2001 (IPOA-IUU Fishing 2001). But in Chapter III, paragraph 8, IPOA-IUU Fishing 2001 The purpose of IPOA is to prevent, obstruct and eliminate IUU Fishing, by the readiness of the whole country with comprehensive, effective and clear action, including through appropriate regional fisheries management organizations established by international law. Under this regulation that Indonesia's sinking of vessels is still relevant to the IPOA-IUU Fishing 2001, given that the sinking of the vessel is also not in conflict with UNCLOS 1982. Even under Chapter IV verse (21) The IPOA-IUU Fishing 2001 asserts that the state must guarantee sanctions IUU Fishing is done by the widest possible ship, because the state under its jurisdiction is considered more effective to prevent, counteract and eliminate the practice of IUU Fishing. This means that IPOA-IUU Fishing provides freedom for countries to determine sanctions against illegal fishing boats.

Code of Conduct for Responsible Fisheries 1995 also does not clearly set about drowning foreign ships that do illegal fishing. This rule only affirms the obligation for countries to manage fish resources in marine areas with the principle of responsibility. The effectiveness of the Code of Conduct for Responsible Fisheries (CCRF) is undertaken by requiring member states to provide progress reports every two years to FAO. Reports of member states will be a reference in determining the state's compliance status to fishing action responsibly and in turn averting a country from allegations of IUU Fishing action. In view of the voluntary nature of the CCRF and the adoption model adopted in the application of the CCRF principles to the respective national laws, the implementation of the CCRF is subject to good faith and the ability of the state apparatus to adopt the CCRF's general principles relating to countermeasures IUU Fishing (Renhoran 2012: 19).

However, vessel sinking is also not banned in the CCRF. In fact, the act of sinking a ship cannot be said to be in conflict with the CCRF. Based on Article 6 item 3 that states should prevent over-fishing and over-capacity fishing and implement management measures to ensure that fishing efforts are balanced with the productive capacity of the fishery resources and their sustainable use. Illegal fishing can be one of the actions that can make fishing that exceeds capacity and does not pay attention to the fish population at sea. In addition, Article 7.1.7 of the CCRF affirms that countries within their respective scope of authority and capacity shall establish effective mechanisms for monitoring, supervision, control of fisheries and their enforcement to ensure compliance with conservation and management measures. These two articles could serve as a basis for Indonesia to implement ship sinking policies as an effective and decisive effort against irresponsible illegal fishermen and could disrupt the efforts of the international community to jointly maintain fish populations at sea.

The Joko Widodo's policy to drown the fishing boats of foreign fishermen who stole fish in Indonesian waters can no longer be protested

because this is part of the form of affirmation of Indonesian sovereignty. Foreign-flagged ships can no longer steal fish in Indonesian waters. TNI Navy (AL) began implementing Joko Widodo's instruction to sink the fishing thief vessels. According to him, the message of this sinking is that Indonesia is not playing in the strict action of Illegal Fishing. Even, He emphasized that Indonesia must secure our oceans from looting foreign parties, that on land, in the sea, and in the air the territory of Indonesia is the sovereignty of the Republic of Indonesia. Therefore, every inch of his territory is the honor of this nation, as for the sound as, "Like the Javanese proverb that is often pronounced Bung Karno about the sovereignty of this nation: *Sadumuk Bathuk Sanyari Bumi Ditohi Pati*, a piece of territory is defended with life stakes because that is our honor."⁷

Despite the pros and cons of President Joko Widodo's instructions to sink a foreign ship carrying illegal fishing of Indonesian marine territory, Rahman (2015) asserted that the instruction aims to show the firmness and dignity of the Indonesian government in protecting the territory and its natural products, its sovereignty, a deterrent effect, securing the sea from the plundering of foreigners, as well as the real action of attempting to translate the vision of the maritime axis being intensified by the government in the past year, especially with regard to full sovereignty at sea. Previously, reported that the Indonesian authorities arrested as many as 200 Malaysian fishermen who allegedly illegally catch fish in Indonesian waters. President Joko Widodo said that foreign fishermen who illegally fish in Indonesia do not need to be arrested, but the ship is drowned. The President also did not forget to say that before the ship was drowned the crew on the foreign ship must first be rescued.

This assertive action is predicted to be effective will cause a deterrent effect because the vessel is the main production tool of the theft perpetrator. If the ship and its expensive equipment are drowned, the thief will think a thousand times to repeat the theft in Indonesian territory because the motive of theft is for profit. The problem of illegal fishing by foreign ships is not a matter of the loss of fishery resources, but also about the violation of state sovereignty which is the very principle, for that law enforcement and our sovereignty must be really enforced. The decisive action of sinking this ship in international diplomacy is also felt to be very effective, a concrete and decisive act far more important and effective than a thousand threats.

⁷ Tino Berita, "Instruksi Presiden Jokowi Tenggelamkan Kapal Asing Ilegal Pencuri Ikan", *Online News*, retrieved from <http://tinoberita.blogspot.co.id/2014/12/Instruksi-Perintah-Jokowi-Tenggelamkan-Kapal-Asing-Pencuri-Ikan.html>, access on 17 May 2016

ANALYSIS OF THE DROWNING OF VIKING FV VESSEL BY THE GOVERNMENT OF INDONESIA

ACCORDING to Nikijuluw the act of illegal fishing has the effect of cost-benefit paralysis (economic paralysis due to crime) that is considered big.⁸ Although it is difficult to calculate and know the amount of its economic lost accurately. According to Gianni and Simpson, one of the difficulties in finding accurate data and information is the fact that illegal fishing is managed and run with a high level corporate structure and a complex business network that deliberately closes the real reality (Gainni and Simpson 2005: 84). Similar to the illegal fishing action that occurs in the region and other countries in the world, Indonesia also does not have the data and the exact number of illegal fishing that occurred in the waters. However, several researchers and institutions in Indonesia have estimated the value of illegal fishing losses that occur based on assumptions and findings in the field. According to Rokhmin Dahuri, until 2002 the value of state losses due to illegal fishing action reached USD 1.362 billion per year (Nikijuluw 2008: 67). In general, illegal fishing activities that occur in Indonesian waters, among others:⁹

1. Unlicensed fishing;
2. Fishing using false permits;
3. Fishing using forbidden fishing gear; and
4. Fishing with species that are not in accordance with the permit.

One of the perpetrators of FV Viking's illegal fishing vessel was captured by the Navy in collaboration with Interpol Norway conducted at 12.7 miles north of Tanjung Berakit, Bintan on 24 February 2016 (Limahekin 2016). Based on the position of the fishing vessel FV Viking means including into the territory of Exclusive Economic Zone of Indonesia. Pursuant to Article 56 paragraph (1) of UNCLOS 1982 coastal states have sovereign rights for the purpose of exploration and exploitation, conservation and management of natural resources, both biological and non-biological, from waters on the seabed and from the seabed and subsoil and in respect of other activities for the purpose of exploration and economic exploitation of such zones, such as energy production from water, currents and wind. In addition, coastal states also have jurisdiction to protect and conserve the marine

⁸ APEC Fisheries Working Group, *Assessment of Impact of Illegal, Unreported, Unregulated (IUU) Fishing in the Asia-Pacific*. Asia-Pacific Economic Cooperation Secretariat, Singapore 2008, p 52

⁹ Directorate General of Supervision and Control of Marine and Fisheries Resources Ministry of Marine Affairs and Fisheries Republic of Indonesia (Direktorat Jenderal Pengawasan dan Pengendalian Sumber Daya Kelautan dan Perikanan Departemen Kelautan dan Perikanan Republik Indonesia), *Kebijakan Pengawasan dalam Penanggulangan Illegal, Unreported and Unregulated (IUU) Fishing*, Ministry of Marine Affairs and Fisheries, Jakarta, 2006, p. 8

environment. This means that Indonesia has the authority to enforce its law against the Viking FV Vessel.

The Viking Viking ship goes to Indonesia without carrying out the reporting obligations of identity and data of the voyage. In fact, it also does not have a Fishing Permit (SIPI). Surely this has violated Article 27 paragraph (3) of Law no. 45 Year 2009 on Fisheries. The ship without the SIPI has fulfilled the element as sufficient proof of beginning, enabling the special conduct of the sinking of the vessel. Moreover the Viking FV ship is referred to as a stateless ship. In his statement, Susi explains the 1,322 GT FV Viking ship is a ship without nationality that has long been conducting illegal fishing activities in various parts of the world. By the Regional Fisheries Management Organization (RFMO) of South Antarctic Ocean called the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), this ship is categorized as the perpetrator of illegal fishing (Ratya 2016).

The FV Viking crew consists of five Foreigners from Chile, Argentina, Peru, and Myanmar, along with six Indonesian Citizens. The 11 crew members are Juan Domingo Nelson Venegas Gonzales (captain), Cirilo Ramon (mechanical engine), Elber Jose Diaz (deck boats-man), Porfirio Vicente Alvarado Bernal and Tuykyaw Khaing (crew) crew, Agus Subianto, Didik Tri Ujawan, Moh Nurcholiz, Moh Nurkoliz, Moh Irchas, and Wastari. Viking FV Master. Juan Domingo Nelson Venegas Gonzalez admits, restless in the absence of certainty of legal status received by his crew. He said, until now there has been no clarity with their status. Even the representatives of their respective countries no one came to take care of it until now. He began to worry about the conditions that befell his crew. Meanwhile, Head of PSDKP Batam, Akhmadon said, for crew members FV Viking, they only dititipkan by the Navy. Pursuant to Article 73 paragraph (2) of UNCLOS 1982 affirming that the captured Ship and its crew shall be released immediately after being given a proper security deposit or other form of security. In addition, there is no coastal law entitled to violation of the fisheries legislation in ZEE shall not include confinement. In fact, in Law No. 45 of 2009 also does not regulate the detention of crew members. However, Article 69 Paragraph (3) stipulates that the Fishery Supervisory Boat may stop, inspect, carry and hold vessels suspected or reasonably suspected of committing violations in the territory of the Republic of Indonesia fishery management to the nearest port for further processing. If the FV Viking crew is properly entrusted and not detained indefinitely then it is legitimate under national and international law.

CONCLUSION

THE impact of illegal fishing almost touches all aspects of community life, so it makes it a serious challenge for the coastal countries. Illegal Fishing takes place almost everywhere in the world. Illegal Fishing is a well-organized fishery crime, starting from national to international level. The Joko Widodo's policy to drown the fishing boats of foreign fishermen who stole fish in Indonesian waters can no longer be protested because this is part of the form of affirmation of Indonesian sovereignty. Foreign-flagged ships can no longer steal fish in Indonesian waters. The policy of drowning of illegal fishing perpetrators is not contradictory and still considered relevant to international law, such as UNCLOS 1982, IPOA-IUU Fishing and CCRF. The Viking FV ship was captured by the Navy in collaboration with Norwegian Interpol in ZEE Indonesia. The Viking ship goes to Indonesia without carrying out the reporting obligations of identity and data of the voyage. In fact, it also does not have a Fishing Permit (SIPI). Surely this has violated Article 27 paragraph (3) of Law no. 45 Year 2009 on Fisheries. The ship without the SIPI has fulfilled the element as sufficient proof of beginning, enabling the special conduct of the sinking of the vessel. By the South Coast Fisheries Management Organization (RFMO) called Antarctic Marine Living Resources (CCAMLR), the ship is categorized as a ship perpetrator of illegal fishing.

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