



# Strategy on Combating International Economic Crime in the Fisheries Sector in Developing Countries

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**Abstract.** International economic crimes in the fisheries sector (IECFS) are among the issues that occur in developing countries. This article aims to analyze strategies to combat international economic crimes in the fisheries sector at international and national levels, particularly in Indonesia. The research method use juridical normative, main data resources were obtained from international conventions and national legislation. Based on these results, it is known that the types of economic crimes in the fisheries sector include corruption, money laundering, tax fraud, and illegal trade. The IECFS can be organized and has transnational characteristics, so it is necessary to eradicate it. The strategy on combating IECFS at the international level, states can implement existing international laws, such as the United Nations Transnational Organized Crime, United Nations Convention Against Corruption, and cooperate with Interpol to arrest perpetrators of crime. At the national level, states can adopt the rules of the Article 3373 Lacey Act, which regulates extraterritorial jurisdiction that allows United States courts to punish environmental crimes even if the crimes were committed outside the United States.

**Keywords :** developing countries, fishery sector , International economic crime.

## 1. Introduction

The fisheries industry is vital to the world's food security, economic success, and human wellbeing. It is especially significant to coastal communities in many developing States.[1] The industry also contributes to the creation of jobs and household income along the entire supply chain.[2] In the global economy, the fisheries sector is a sizable and thriving sector with strategic value for many established and developing countries. Over 500 million people in poor countries depend directly or indirectly on fisheries and aquaculture for their livelihoods, with the industry having a global annual worth of over USD 217.5 billion.[3]

With over 50% of global fish exports coming from developing nations, fish commerce generates more net foreign exchange revenues than all of the exports of beef, tea, bananas, and coffee combined.[4] The majority of the non-EU fish consumed in the European Union (EU) comes from developing countries' waterways.[5] The fisheries sector is a profitable industry when properly handled. However, there is also a considerable danger of low non-compliance identification and legal enforcement in this industry. It covers a variety of related, significant crimes that occur at all points in the value chain. The preparation, catching, landing, and exporting phases are the start of the value chain in the fishing industry.[6] In this stage provide opportunity for those who commit economic crimes and transnational organized crime (TOC). Organized crime is so large that it effectively operates as a parallel economic system, undermining sustainable economic growth and posing a significant challenge to fisheries law enforcement agencies around the world due to its links to illegal fish and seafood harvesting, processing, and trading on a global scale.[7]

Unchecked organized fisheries crime primarily affects coastal populations in underdeveloped nations. For their livelihoods and sustenance, many people are largely dependent on a healthy maritime environment. The emerging nations that have experienced crime in the fishing industry include Ghana, South Africa, West Africa, Latin America, Thailand, Indonesia, and the United States.[8] This article focuses on reviewing the IECFS strategy, or strategy to combat international economic crimes in the fishing industry. Economic crime is generally understood to be criminal activity carried out for financial gain. Economic crime, usually referred to as financial crime, is the criminal behavior that one person or a group of people engages in in order to gain a competitive financial or professional edge. Economic gain serves as the primary motivation for these acts.[9]

Economic crime and TOC are related to one another. Economic crime is particularly appealing to organized crime groups because of the low risk and big earnings it brings. There are a lot of important players in the commercial fishing sector in the IECFS context. Captains at sea, proprietors of ship registries, fish sellers and processors are among them. They are dispersed among a number of international territories. Consequently, organized crime is sophisticated and often invariably transnational. Therefore, it is quite difficult to detect fisheries crime, identify the criminals involved, and bring successful legal action against them.[10]

One of the emerging nations in Asia that experienced losses as a result of fisheries-related crime and illegal fishing is Indonesia. In order to make Indonesia the Global Maritime Fulcrum (GMF), President Joko Widodo has declared that combating IUU fishing is a national priority and one of the foundations of maritime defense since taking office in 2014.[11]

## **2. Problem**

Based on the background, the problem can be formulated as follows : How is the strategy of developing countries to combat international economic crime in the fishing industry?

## **3. Method**

This study is normative juridical which use statutes, and conceptual approach. This study looked at secondary data made up of primary legal documents like conventions, declarations, and laws as well as secondary legal documents like books and journals that are related to economic crime in the fishing industry. Data will be analyzed qualitatively examined.[12]

## **4. Discussion**

### **4.1. Understanding The Characteristic of International economic crime in Fishery Sector**

Numerous scholars have emphasized the fact that economic crime is a specific type of organized crime. They claim that economic crime is characterized by specialization, professionalism, and organization. Criminals need more professional experience and extensive organizational systems, and these requirements increase with the complexity of the environment in which they operate.[13] The fisheries industry is one that is targeted by economic crime. The flag State of the fishing vessel, the coastal State in whose waters the fisheries crimes occurred, the port State where the illegal catches are landed, the nationality of the individuals, operators, and businesses, and the import or export State are just a few examples of the factors that can contribute to the transnational nature of economic crime in the fishery sector.

The steps of the value chain for the fisheries industry normally include: preparing, catching the fish, landing the catch, processing the catch, transporting and exporting the fish and fish products, and selling the fish and fish products to consumers. Following are the stages of economic crime along the value chain:

#### **a. Preparation Phase**

##### **1) Document forgery**

Given that the majority of fishing documentation is still done on paper, document fraud is a highly common offense in the fisheries industry. The production of fake paperwork regarding a ship's flag State registration or ownership, as well as regarding the name, measurements, or identification of the vessel, can be considered document fraud. [6] Document fraud may take the form of fake

fishing licenses, catch and transshipment records, mislabeling of fish and/or fish products on export/import packages, among other things, during the subsequent phases.

## 2) Bribery and Corruption

Corruption offenses related to getting licenses and permissions include the following: Bribery, both high-level and low-level, used to grant businesses licenses government employees selling more licenses than they declare in the official records in order to embezzle licensing payments. Active bribery during the planning stage entails promising and/or providing a bribe to a public official. The goal of the bribe can be to get officials to operate registries with little to no scrutiny or to get them to issue licenses for engaging in illicit fishing activities. [13]

## b. Caching Phase

### 1) Forced labor

There have been reports of direct connections between illegal fishing vessels and those using their crews as forced labor, as well as other forms of abuse such physical and sexual assault, coercion, disdain for crew members' safety and working conditions, and even murder.[14]

### 2) Tax evasion

The tax evasion begins when either the amount of the catch or the species are erroneously documented in the vessel's records. Following that, the fish can be "layered" on the vessel to conceal the high-value species before the vessel is landed. Tax evasion methods may also include evading import charges on fish and fish products transferred across national borders, committing value-added tax fraud, or evading income tax or other taxes. Disguising the origin of the fish (either the nation of origin or the identity and flag of the fishing vessel), under-declaring the amount of a haul, or mislabeling the products caught or sold are the most common tactics used to perpetrate tax fraud.[6]

## c. Landing Phase

The catch will be landed at a licensed port where the nature and value of the catch will be declared and documented. In some circumstances, the fishing license will specify where the catch should be landed, whilst in others, a broker will be utilized to identify where the catch should be landed in order to obtain the best price. Some landing facilities may have a strong relationship with the fishing vessel, possibly through shared ownership, which could lead to the value of the catch being misreported. Alternatively, fishing businesses may attempt to avoid paying taxes and customs fees by transporting their catch to an unregistered landing point.

Forging or falsifying catch records, keeping several log books to disguise actual catches or capture sites.[4]

d. Processing Phase

High-grading, the practice of discarding fish with a lower market value (due to size or quality) or discarding species with no or very low commercial value, or which are caught alongside a targeted catch, is an extremely wasteful and frequently illegal practice.[15] Frequently, false labels are used to sell one form of fish as another. In the fisheries industry, food fraud can occur through the mixing of illegally captured and legally caught fish or the mislabeling of products. The falsification of documents, such as landing and/or transshipment documents, may also comprise violations of customs regulations and food hygiene regulations, posing a threat to public health.[16]

e. Transporting and exporting fish and fish products:

Fish laundering, transshipment, disposal at convenient ports, false labeling and export permits, and bribery are all employed to facilitate the movement of illegal fish products. The transshipment process has also been criticized for contributing to labor and human rights violations.[17]

f. Consumer sales of fish and fish products

False labeling of products and direct sales to avoid taxation. Tax evasion in the fisheries sector includes evasion of import and export duties on fish and fish products transported across national borders; fraudulent claims for VAT repayments; failure to account for income tax on fishing profits; and evasion of income tax and social security contributions, as well as false claims for social security benefits, by fishers and their families.

#### **4.2. The Strategy to combat International Economic Crime in Fishery**

The first technique for countering international economic crime in the fishing sector can be accomplished by making existing international and national law more functional. Given the transnational and often multi-crime nature of these crimes, a variety of international instruments will be examined for addressing these types of crimes. A number of international treaties govern the exploitation and trading of fishery resources in order to secure their long-term usage. The 1982 United Nations Convention on the Law of the Sea (UNCLOS), 1995 United Nations Fish Stocks Agreement (UNFSA), 1993 FAO Compliance Agreement, and 2009 Port State Measures Agreement (PSMA) are the four major global binding treaties and multilateral agreements directly related to the management and conservation of fishery resources, including enforcement measures.

The UN Convention on the Law of the Sea (UNCLOS) establishes a basic legal framework for the control of all activities in the oceans and seas, including fishing. However, UNCLOS failed to prevent overexploitation of some fish species, as well as

other issues such as unregulated fishing, vessel reflagging, and a lack of collaboration among governments. [18] As a result, the United Nations Conference on Environment and Development (UNCED) in 1992 called for the creation of additional instruments, which resulted in the 1995 United Nations Fish Stocks Agreement (UNFSA) and additional instruments developed under the auspices of the Food and Agriculture Organization of the United Nations (FAO), such as the 1993 FAO Compliance Agreement. FAO later adopted the 2009 Port State Measures Agreement to improve port states' responsibility in combating IUU fishing.

Significant global binding treaties and multilateral agreements directly relevant to fishing resource management and protection, including enforcement measures: The 1982 United Nations Convention on the Law of the Sea (UNCLOS), the 1995 United Nations Fish Stocks Agreement (UNFSA), the 1993 FAO Compliance Agreement, and the 2009 Port State Measures Agreement (PSMA) are all examples of international treaties.

FAO should improve port states' role in combating IUU. Several international treaties address IECFS-related concerns by establishing principles, rules, laws, and structures. When combined with fisheries treaties or treaties connected to fisheries, they provide national authorities with a more integrated approach to addressing crimes in the fisheries sector by providing tools to handle ancillary criminal behaviour. Some of the legal frameworks formed by these instruments, for example, could be utilized by their parties to seize and confiscate assets, extradite, or provide for legal assistance procedures. The following instruments are available:

a. UN Convention against Transnational Organized Crime (UNTOC)

The UNTOC of 2000 is the first globally binding instrument aimed at facilitating more effective collaboration in the prevention of transnational organized crime. Where bilateral agreements are not employed, state parties to UNTOC can use the mutual legal aid or extradition procedures under UNTOC to facilitate criminal investigation and prosecution of transnational organized fisheries crime.[19]

b. The UN Convention Against Corruption (UNCAC)

The UN Convention Against Corruption (UNCAC) is a legally binding agreement that defines new standards and procedures to combat corruption, as well as calls for preventive measures and the prosecution of the most widespread kinds of corruption in both the public and private sectors. Corruption takes many forms in the fishing industry, and it can occur at any point along the illicit fishing supply chain. Corruption, for example, can play a role in obtaining fishing licenses or meeting fishing quotas. Bribery of government authorities can also be used to conceal infractions or avoid inspections.

c. OECD Anti-Bribery Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

The OECD Anti-Bribery Convention creates legally binding norms to ban bribery of foreign public officials in international economic transactions, as well as a slew of enforcement tools. This Convention's goal is to combat corruption in developing nations by advocating sanctions against bribery in international business transactions conducted by enterprises established in Convention member countries. Even though this Convention does not expressly address illicit fishing, it has the potential to help address the problem of tax evasion in the fisheries sector.

d. Nairobi Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offenses

The International Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offenses and its Amending Protocol of 1985 are two of the World Customs Organization's most important legal instruments. Other international legal instruments, like as the 1988 Drug Convention, can be used in the event of IECFS. One of the goals of the 1988 Drug Convention is to strengthen the channels of international judicial cooperation among the Parties so that they can address the various aspects of drug trafficking more effectively. The majority of the Convention's provisions deal with the laundering of criminal proceeds (freezing, seizure, and confiscation of property or proceeds of crime), extradition, or mutual legal assistance, and have since been transferred to other documents such as the UNTOC and UNCAC. As a result, the application of the Drug Convention could be beneficial in destroying criminal networks engaging in this type of unlawful activity.

On October 15, 2018, in Copenhagen. The Ministers' Declaration on Transnational Organized Crime in the Global Fishing Industry was released by nine Ministers from large ocean nations from four continents. Are convinced that the world community must recognize the existence of transnational organized crime in the global fishing industry, and that this activity has a serious impact on the economy, distorts markets, harms the environment, and undermines human rights; and are also convinced that international cooperation is required, with developing countries bearing a disproportionate share of the burden.[20]

Legislative frameworks are essential at the national level to effectively prevent, investigate, and prosecute criminals in the fishing sector. National legislation may also help to effectively address international fishery crimes. The United States' Lacey Act is frequently referenced as an exemplary enforcement mechanism applicable to the subject of fisheries: the Act is a US regulation focused directly at targeting illegal traffic in illegally obtained fish and wildlife. It makes it illegal for any person subject to US jurisdiction to: import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any state or foreign law.[21]

This multitude of jurisdictions necessitates strong collaboration between the several States and administrations participating in the prevention, investigation, and

prosecution stages in order to share information and connect investigations. Capacity-building for frontline law enforcement personnel from all relevant agencies, including fisheries, ports, customs, and labor, in addition to the police, is critical, as is inter-agency cooperation. Interagency cooperation, such as sharing best practices and working on projects with states, intergovernmental organizations, non-governmental organizations, and the private sector, can help build and strengthen the international cooperation and governance frameworks needed to combat transnational economic crime in fisheries[22]. The international collaboration mechanisms against IECFS include are:

a. Law enforcement cooperation

Cooperation between law enforcement agencies in different countries can take place through a variety of channels, including direct bilateral or multilateral contacts, posting of police liaison personnel in foreign countries, cooperation on prevention, cooperation on information-sharing, cooperation during investigations, and cooperation through international police organizations like INTERPOL.[4]

b. MLA (mutual legal Assistance)

Mutual legal assistance (MLA) is the exchange of information through formal cooperation via existing legal institutions. It is a critical instrument for international cooperation, particularly in criminal processes involving transnational crime. which often involve the enforcement of laws and the prosecution of relevant offences established under different domestic legislative regimes.

c. Joint investigation teams

A joint investigative team (JIT) is a group of law enforcement personnel from various nations who get together for a certain length of time to examine a specific international case.

d. Customs authorities' mutual administrative assistance (MA).

Mutual administrative assistance (MA) is most commonly used to describe the type of help provided by one country's customs authority to another, and it includes support in the prevention, investigation, and prosecution of customs offenses.

e. Extradition

Extradition is the official procedure by which one state requests that another state return a person accused or convicted of a crime to stand trial or serve his sentence in the requesting state. This can happen (a) to prosecute him or her, or (b) to carry out a criminal judgment that has already been rendered.

In Indonesia, international economic crime in the fishing industry typically starts with the occurrence of IUU fishing. Indonesia has shown a strong governmental commitment to combating IUU fishing and IECFS. A new marine vision put forth by President Joko Widodo places the water as the nation's destiny. The objective is quite



strategic; it aims to establish Indonesia as the Global Maritime Fulcrum, making the sea the nation's future. Sovereignty, sustainability, and prosperity are the three pillars on which the Ministry of Maritime Affairs and Fisheries has built its vision for this maritime axis. To reduce IUU fishing and IECFS, several strategic policies have been released.

- a. Singking of IUU fishing vessels based on Article 69(4) of Fisheries Act Number 45 of 2009 is one of the regulations that have been implemented;
- b. The temporary suspension of ex-foreign vessel operations based on Ministerial Regulation Number 56 of 2014 on a moratorium on the issuance of licenses for capture fisheries in the territory of the Republic of Indonesia's Fisheries Management;
- c. The Ministry of Marine Affairs and Fisheries' Ministerial Decree No. 57/PERMEN/KP/2014, which prohibits transhipment at sea;
- d. Apply administrative penalties, including the suspension of 61 licenses, the cancellation of 15 business licenses, the issue of 291 fishing licenses, and the issuance of 48 administrative warnings;
- e. Establish The Indonesian International FishFORCE Academy (IFFAI); and
- f. Tackling the fisheries crime case with a multi-door strategy

Fisheries crimes typically involve money laundering, bribery and other forms of gratification, as well as tax evasion and fraud. Crimes in the marine and fishery sector are cross-sector crimes; statutory limitations make it necessary to use other regulations to capture these crimes.

South Africa is the second case study in point. The majority of the Marine Living Resources Act (MLRA's) provisions constitute criminal offenses in South Africa, and those who violate them are subject to fines of up to ZAR 2 million or prison terms of up to 2 years (section 58(1). This includes, for instance, engaging in any fishing or associated activities in violation of Section 13's permit-related provisions and Section 58 (1) (a) (i) and (ii)'s prohibitions on violating the terms of Fishing Rights and Permits. The country of South Africa is losing enormous sums of money as a result of organized crime targeting its fisheries. More involvement from Treasury and the taxman is required. National marine resources and billions of rands are being wasted. The key officers with the authority to act under the law are Fisheries Control Officers, who are appointed in accordance with section 9 of the MLRA. Fisheries Control Officers are given extensive compliance and enforcement powers under section 51 of the MLRA, including the ability to enter and search any vessel, vehicle, aircraft, or premises with a warrant and seize any property. However, the powers of Fisheries Control Officers are restricted by the Constitution of the Republic of South Africa.[23]

The training curriculum now includes lessons on fisheries crime and the preservation of marine life, as opposed to the earlier focus on land flora and fauna. The

program also has a strong emphasis on raising judicial personnel's awareness of the nature, scope, and effects of organized crime in the fishery. FishFORCE and Stop Illegal Fishing organized three training workshops on the PSMA's implementation earlier in 2022 in Dar es Salaam, Maputo, and Mombasa in order to continue developing regional and global law enforcement expertise and strengthen cooperation between partner countries.[24]

## 5. Conclusion

Both international and national strategies can be used to address international economic crime in the developing world's fisheries sector. States can promote international cooperation between States and international organizations by applying existing international legislation at the international level, such as the United Nations Convention Against Corruption and its Protocols, the Drug Convention, and the Anti-Bribery Convention. States may enact the Lacey Act, which governs extraterritorial concept, at the federal level.

Combating IUU fishing was the first step in tackling IECFS in underdeveloped nations. The government has strengthened the institutional, policy, and legal frameworks to address IUU fishing. many doors are used. In order to combat IECFS, the government also aggressively promotes international co-operation between States and international organizations.

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