Chapter Six

Coastal State Measures

6.1 General Framework for Coastal State Measures

The declaration of fisheries zones and exclusive economic zones (EEZ) by coastal States in the 1970s and 1980s resulted in the vast areas of the most lucrative fishing grounds coming under coastal State jurisdiction. The subsequent adoption of the LOSC displayed the old freedom of fishing for most parts of the oceans and provided the legal basis for coastal States to manage, control, regulate and obtain economic rent from distant water fishing nations seeking access to their EEZs.

The establishment of fisheries zones and EEZs created favourable conditions for IUU fishing in a number of ways. The sheer size of these zones placed enormous burden on coastal States in terms of effective management and enforcement of jurisdiction, thus providing fertile ground for IUU fishing. A classic illustration of this problem is in the South Pacific islands region where EEZ claims have resulted in large areas of ocean space coming under the fisheries jurisdiction of Pacific Island States. For example, Kiribati has an EEZ of 3.1 million square km and a land area of only 690 square km, resulting in a land to sea ratio of 1:6000. Additionally, problems such as marginal high seas fishing, underreporting and misreporting of fish catches, the use of efficient and destructive fishing technology and the widespread reflagging of fishing vessels, result in the increase in IUU fishing activities in the waters of Pacific Island States.

Recognising the constraints facing many coastal States in policing their EEZs, the IPOA-IUU identifies a number of tools that coastal States can use to prevent, deter and eliminate IUU fishing. Paragraph 51 of the IPOA-IUU provides that “(i)n the exercise of the sovereign rights of coastal States for exploring and exploiting, conserving and managing the living marine resources under their jurisdiction, in conformity with the LOSC and international law, each coastal State should implement measures to prevent, deter and eliminate IUU fishing in the exclusive economic zone.” The IPOA-IUU then goes on to enumerate eight specific measures, including effective monitoring, control and surveillance

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(MCS), cooperation and exchange of information with other States, issuance of valid authorisations to fish, maintenance of records of fishing vessels, maintenance of logbooks, control of at-sea transhipment, regulation of fishing access and avoiding granting licences to vessels with known history of IUU fishing. It is worth noting that the various coastal State measures identified in paragraph 51 of the IPOA-IUU are not new, but simply reiterate the existing powers available to coastal States under the LOSC.

In practical terms, many of the coastal State measures outlined in IPOA-IUU overlap with the actions that may be taken by all States, flag States and port States to combat IUU fishing. For example, in cases where IUU fishing activities are conducted by vessels flying the flag of the coastal State itself, the coastal State is also the flag State. As such, the coastal State would also need to discharge its duties as a flag State with respect to its vessels operating in the EEZs of other States and on the high seas. The coastal State will also be acting under the umbrella of “All States” in implementing some of the measures identified by the IPOA-IUU in respect of All State Responsibilities discussed in Chapter 4. In addition, the coastal State will be acting as a port State if it takes action to prohibit IUU fishing vessels from entering into its ports. Because of these overlaps, it is important for coastal States to develop comprehensive measures across all areas of action identified by the IPOA-IUU to effectively combat IUU fishing. This chapter focuses on a range of measures which are particularly unique to coastal States.

### 6.2 Coastal State Fisheries Jurisdictional Framework

The LOSC provides the primary legal framework for coastal State measures to combat IUU fishing. As discussed in Chapter 3, the LOSC recognises two broad maritime zones that come under the jurisdiction of coastal States. These are zones under the sovereignty of coastal States (comprising the internal waters, archipelagic waters and territorial seas); and zones under the sovereign rights of coastal States (encompassing the EEZ and the continental shelf). For fisheries purposes, it is important to note that the contiguous zone is part of the EEZ.

In terms of the sanctions imposed by the coastal State on IUU fishers, coastal State measures in maritime zones under sovereignty would need to be distinguished from coastal State measures in maritime zones under sovereign rights. This is precisely because the LOSC only constraints the exercise of fisheries powers by coastal States in maritime zones under sovereign rights, leaving the coastal State with more flexibility in its maritime zones under sovereignty.

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3 *IPOA-IUU*, para. 51.