

Introducing the Special Issue 22.4 Regime Convergence and *Lex Ferenda* in IUU Fishing Disputes: Introductory Remarks

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It is a beautiful coincidence to finish compiling this collection of scholarship on 5 June 2020, which the UN has dubbed ‘International Day for the Fight against Illegal, Unreported and Unregulated Fishing’. Each year, this is a day to reflect on disagreements as to what the future of this fight requires. Illegal, unreported, and unregulated (IUU) fishing continues to critically threaten food security, economic opportunity, and other indicators of healthy societies. This phenomenon poses the greatest risk for States and peoples who are most severely impacted by the effects of climate change upon marine ecosystems. IUU fishing often leads to human rights abuses for those directly involved in this practice, which are perpetuated through lax enforcement by the responsible flag or coastal States. The complex reasons for IUU fishing persist despite existing efforts by the international community, such as Goal 14 of the Sustainable Development Agenda and, in particular, the 2009 FAO Port State Measures

Agreement – the first binding instrument on this subject, which entered into force four years ago today.¹

In practice, the dynamics of IUU fishing encompass myriad legal regimes and jurisdictional challenges. As a result, the management of IUU fishing disputes now takes place across a diverse range of dispute settlement modalities and fora, including institutions for global and regional cooperation, international courts and tribunals, and domestic jurisdictions. For this reason, the Max Planck Institute Luxembourg for Procedural Law and the University of Geneva convened an expansive conference in Luxembourg in November 2019, inviting internationally renowned academics as well as practitioners, jurists, representatives of international organizations, and government officials to evaluate the progress made thus far in addressing IUU fishing from these different angles.² This issue of the *International Community Law Review* collects a selection of papers informed by that discussion, and as such raises holistic considerations that could constructively serve as the basis for future developments in this area.

This collection begins with *Nilufer Oral's* brief but masterful account of the history and prospects of this field, 'Reflections on the past, present, and future of IUU fishing under international law'. Exploring this collection's themes of regime convergence and *lex ferenda*, Oral emphasizes the direct link between IUU fishing and other transnational crimes such as human trafficking and forced labour, and parallels the evolution of fisheries instruments with the development of the concept of environmental crime. The article argues that the future of IUU fishing disputes requires a consolidated effort to address this phenomenon from the perspectives of management, conservation, human rights, and transnational crime – including through enhanced roles for international courts and tribunals.

Following this overview, the Special Issue first explores a number of perspectives on the multidimensional implications of IUU fishing disputes. *Christina Voigt* informs this approach with 'Oceans, IUU and climate change: implications for international law'. Voigt underlines that the projected impacts of climate change on the oceans could outpace the stress which IUU fishing places upon marine life, and that focusing on the role of oceans in addressing climate change and its adverse impacts may open a window of opportunity

1 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 55 ILM 1157 (Rome, 22 November 2009).

2 The authors wish to acknowledge and thank the staff of the MPI Luxembourg for their excellent organization of this conference.