Analysis of IUU Fishing in Indonesia for the Reform of Fisheries Legislative and Institutional Frameworks

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INTRODUCTION

In recent years, illegal, unreported and unregulated (IUU) fishing has been the subject of increased national concern for Indonesia. IUU fishing covers a wide range of activities, including unsustainable fishing practices, unreported and unregulated fishing activities. One reason for the concern is the recognition by the Indonesian government and estimation by the Food and Agriculture Organization of the United Nations (FAO) of the extent of the problem, which seriously affects the country’s economy. IUU fishing has also threatened target fish species, undermined conservation and management measures of the Indonesian fisheries management authority, and resulted in diplomatic embarrassment for Indonesia.

In an effort to reduce this problem, Indonesia has adopted a series of national laws and regulations concerning the limits of national jurisdiction and conservation and management measures of fish stocks. Among these are the Indonesian National Waters Act No. 6, Government Regulation No. 38 of 2002 on the Indonesian base-points, Law No. 5 of 1983 on the Indonesian EEZ, Government Regulation No. 15 of 1984 concerning the Management of Living Resources in the Indonesian EEZ, Presidential Decree No. 39 of 1980 on the Elimination of the Use of Trawls, Decision of the Minister of Agriculture No. 392 of 1999 Concerning Fishing Zones, Decision of the Minister of Marine Affairs and Fisheries No. 60 of 2001 concerning the Regulation of Fishing Vessels Operations in

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the Indonesian EEZ, and Law of the Republic of Indonesia No. 31 of 2004 Concerning Fisheries. The continuation of IUU fishing, both within and beyond the Indonesian Exclusive Economic Zone (EEZ), has raised questions regarding the effectiveness of the prevailing national legislation and institutional framework for fisheries management. This has highlighted the need for reform of fisheries legislative and institutional frameworks in tackling IUU fishing problems.

This article reviews the fisheries legislative and institutional frameworks in Indonesia and examines the adequacy of these frameworks to combat IUU fishing within and beyond the Indonesian EEZ. The adequacy of the legal framework will be examined against the international legal frameworks. This article demonstrates that the Indonesian fisheries legal and institutional frameworks for combating IUU fishing are fundamentally flawed, and do not meet the requirements of international fisheries instruments. One of the critical gaps in the effective implementation of its international fisheries obligations to combat IUU fishing is the failure of Indonesia to participate as a full member in all relevant regional fisheries management organizations (RFMOs) and modify its domestic law in accordance with the international fisheries law. Although from 2007 Indonesia has become a member of the Indian Ocean Tuna Commission (IOTC) and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), it has not yet implemented the UN Fish Stocks Agreement’s provisions into its domestic law. The continuous IUU fishing by Indonesian-flagged vessels on the high seas in areas managed by RFMOs, especially for Patagonian toothfish and tuna, indicates a failure by Indonesia in regulating the activities of its vessels on the high seas.

The article also demonstrates the major challenge being faced by Indonesia with respect to its institutional framework to deal with the problems of IUU fishing. Indonesia’s institutional framework is characterized by multiple institutions at the national and provincial levels, lack of coordination in fisheries-related functions, and conflicts in jurisdiction. The article concludes that the national legal and institutional framework are