

Implementation of International Regulations in Illegal Fishing: Case Study of Argentina and the Implementation of the Agreement on Port State Measures (PSMA)

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Abstract

This research focuses on how international rules are put into practice to combat unlawful fishing, using Argentina as a case study and examining the use of the Port State Measures Agreement (PSMA). Information collected by the Food and Agriculture Organization in 2020 reveals that illegal fishing results in annual global economic losses ranging from USD 10 billion to USD 23 billion. The methodology employed in this study is descriptive analysis, with secondary data being utilised. The findings of this research highlight the existence of global laws such as UNCLOS 1982 and PSMA that aim to tackle illegal fishing. Unlike Indonesia, which has ratified the PSMA through Presidential Decree No. 43 of 2016, Argentina is the only Latin American country that has not ratified the PSMA. This is due to a dispute over the Malvinas Islands. However, the Argentine government has made efforts to reform national laws by implementing a fine system and collaborating between state institutions to address illegal fishing practices in the Argentine Exclusive Economic Zone.

Keywords: Agreement on Port State Measures (PSMA), Argentina, Illegal Fishing, International Regulations, Port State Measures.

1. Introduction

Illegal, unreported, and unregulated fishing (also known as IUU Fishing.) poses a significant danger to the long-term health of the global marine ecosystem and the financial well-being of nations with coastlines (Widjaja et al., 2023). The Food and Agriculture Organization's research from 2020 reveals that unauthorised fishing activities lead to annual economic damages ranging from \$10 billion to \$23 billion worldwide (IISD, 2024). This huge global economic loss is inseparable from the large amount of illegal fishing products that enter the international market, which reaches 11 to 26 million tonnes each year (IISD, 2024).

Illegal fishing not only causes huge global economic losses, but also ecological impacts (Meere & Lack, 2008; Suhaidi et al., 2022; Sumaila et al., 2006). Data compiled by the United Nations shows that illegal fishing has caused fish stocks in some regions to decline by up to 30% (thirty per cent), caused marine degradation, and disrupted the food chain which makes biodiversity threatened (Kurylo, 2024). The Port State Measures Agreement (PSMA), which was adopted by the Food and Agriculture Organisation in 2009, is an arrangement aimed at breaking the chain of illegal fishing. This is done by strengthening port controls.



Implementing policies to tackle illegal fishing is a complex challenge for Argentina. Despite being a country with an Exclusive Economic Zone of 1.6 million square kilometers in the South Atlantic region, Argentina has not ratified the Port State Measures Agreement (PSMA). This is due to a dispute with the UK over the Falkland Islands (Malvinas Islands). However, Argentina has developed a progressive legal basis by reforming the Federal Fishing Regime in 2020. With this reform, the maximum fine for foreign vessels that commit illegal fishing in Argentina's Exclusive Economic Zone (EEZ) reached 150 million pesos.

Despite the reform of the Federal Fishing Regime that sets the fine at 150 million pesos, the practice of illegal fishing in Indonesia continues to occur (Safira & Sandela, 2023). In 2024, there were 344 (three hundred and forty-four) foreign vessels at the border of Argentina's Exclusive Economic Zone (EEZ) for the purpose of illegal fishing (Delgado, 2024). The number of illegal fishing cases that occur proves that there is a conflict between Argentina's national commitment to reform the Federal Fishing Regime and the reality that maritime law enforcement has not been fully effective.

This study will investigate how the Agreement on Port State Measures (PSMA) and Argentina's national maritime laws can be utilised to address the issue of illegal fishing, focusing on the challenges of international agreement ratification, marine surveillance mechanisms, and the alignment of national laws with the PSMA. The objective of this research is to explore potential strategies for countries, such as Argentina, that have not yet ratified the PSMA to combat illegal fishing, and to propose policy suggestions that can enhance the harmony between practical situations and international legal frameworks.

2. Methods

The qualitative research method was employed with an analytical descriptive framework for conducting the study. The use of qualitative methods in the study of international relations is carried out to better understand the world around and concentrate on the meaning and processes that occur in the dynamics of international politics (Lamont, 2021). The descriptive analytical approach used in this research makes this research will analyse a specific problem using existing historical data and then described in the form of a description (Lexy, 2005).

The analysis of the issues addressed in this study was conducted using secondary data. The methodology employed for data collection in this study was library research, which involves examining existing research materials such as books, journals, regulations, and online sources.

3. Results and Discussion

3.1. International Legal Framework to Address Illegal Fishing

The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 is crucial for enforcing maritime laws worldwide, particularly in addressing cases of illicit fishing (Swastiwi & Putri, 2023). The Convention offers a detailed structure concerning maritime territories that countries can assert ownership over, scientific exploration, environmental contamination, and conflict resolution methods used by nations. When it comes to cracking down on unlawful fishing activities, UNCLOS 1982 grants coastal nations the ability to enforce regulations within their Exclusive Economic Zone (EEZ).

Article 73 of UNCLOS 1982 outlines the legal basis for coastal countries to take action against crimes within the Exclusive Economic Zone (EEZ). According to Article 73(1) of UNCLOS 1982, coastal nations are permitted to board ships, carry out inspections, make

arrests, and conduct legal proceedings against foreign vessels that violate laws and regulations established in line with the convention. Nevertheless, Article 73(3) of UNCLOS 1983 imposes a key restriction, stating that penalties for fisheries violations in the EEZ should not involve imprisonment unless there is a mutual agreement between the countries concerned (Masriyantika, 2017).

This provision creates a paradox in law enforcement, where coastal states have the authority to arrest illegal fishing offenders, but are hampered in terms of sanctions. Indonesia's interpretation of Article 73 of UNCLOS 1982 suggests that those caught engaging in illegal fishing within the Exclusive Economic Zone may face fines or imprisonment if they are unable to pay. This highlights the need for individual countries to adapt national laws to align with the detailed legal framework provided by the 1982 UNCLOS.

The Food and Agriculture Organization (FAO) created the Agreement on Port Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (PSMA) in 2009, which was put into effect on 5 June 2016 (Hosch et al., 2023). The primary goal of the PSMA is to combat illegal fishing activities by implementing rigorous port surveillance measures. As per the agreement, fishing vessels must obtain a harbour berthing permit and disclose comprehensive details about their fishing operations.

The main mechanism of the PSMA focuses on blocking market access for illegal catches by strengthening harbour surveillance. Vessels found to be engaging in non-compliant fishing practices may be denied port licence applications. Additional measures under the agreement include inspection of equipment, documents, catches, and vessel records. While the agreement does not require countries to apply these measures to their own flagged vessels, they have the option to do so under the terms of the agreement.

As of September 2018, the PSMA has gained the support of 55 parties, consisting of 54 countries and the European Union. Indonesia has officially ratified the PSMA through Presidential Decree No. 43/2016, affirming its commitment to combat illegal fishing. The PSMA is being enforced in Indonesia through four designated ports: PPS Bungus, PPS Nizam Zachman, PPS Bitung, and Beno Public Port (Ismadi, 2022).

3.2. PSMA Implementation Challenges in Argentina

As mentioned above, Argentina has not ratified the PSMA. This is due to a dispute with the UK over the Falkland Islands (Malvinas Islands). Despite having a large Exclusive Economic Zone in the South Atlantic Region, Argentina has not ratified the PSMA due to issues with the UK. The challenges faced by Argentina highlight how geopolitical factors can hinder the enforcement of international laws in combating illegal fishing within its waters.

Apart from Argentina, other countries that have not yet become part of the PSMA are Jamaica and Suriname, which makes Argentina the only country from Latin America that has not ratified the PSMA (Center for Latin American & Latino Studies, 2023). Although it has not ratified the PSMA due to a conflict with the United Kingdom over the Falkland Islands (Malvinas Islands), Argentine legislators have requested that Argentina ratify the PSMA as soon as possible (Center for Latin American & Latino Studies, 2023).

This geopolitical complexity results in gaps in regional surveillance systems, where vessels involved in illegal fishing can exploit differences in policies and levels of surveillance between countries. This indicates the significance of an integrated regional approach in addressing illegal fishing practices, which becomes challenging when there are unresolved territorial conflicts.

Although Argentina is yet to ratify the PSMA, the country has created an innovative legal framework through the reform of the Federal Fisheries Regime in 2020. This reform is a response to the increase in illegal fishing activity in Argentine waters and reflects the national

dedication to protecting marine resources. Through the implementation of this reform, the maximum amount of fines imposed on foreign vessels involved in illegal fishing in Argentina's Exclusive Economic Zone (EEZ) has been set at 150 million pesos (Ministry of Foreign Affairs, 2021).

The new fine system was designed to be variable in nature, referring to units of value related to fuel costs, with equivalent amounts ranging from 500,000 to 3 million litres of diesel, according to the severity of the offence committed. The minimum fine is set at 25 million pesos and the maximum at 150 million pesos, taking into account the current market value. In situations involving foreign vessels, the sanctions imposed are the most severe, given that the vessel is fishing without obtaining a licence from Argentina.

Law enforcement authorities have the authority to order the arrest and detention of foreign-flagged vessels in port, until the substantiation of the respective summary and payment of the fine is made. The new regulation provides the legal basis for the arrest of three vessels as well as setting a fine of 250 million pesos, which has been in effect since last year. This success reflects that national law reform can serve as an effective alternative in addressing illegal fishing, even without involvement in the PSMA.

Although reforms to the Federal Fishing Regime have been implemented with fines of up to 150 million pesos, illegal fishing in Argentine waters remains a persistent issue. In 2024, 344 foreign vessels were recorded operating within the borders of Argentina's Exclusive Economic Zone (EEZ) with the intention of illegal fishing. This figure reflects that maritime law enforcement has not fully functioned optimally, creating a mismatch between national legal commitments and conditions on the ground.

Through a structured collaborative effort between various state agencies, since the end of 2020, the Prefecture has successfully identified 314 fishing vessels through the implementation of daily monitoring and control tasks. The Prefectural Navy carries out illegal fishing control tasks through continuous patrols at the border of Argentina's Exclusive Economic Zone (200 miles). The initiative reflects a holistic approach, involving various government agencies, including the Ministry of Foreign Affairs as well as ministries related to Security, Defence, Agriculture, Livestock and Fisheries.

The Argentine authorities work together across different departments to coordinate actions aimed at stopping, discouraging and preventing illegal fishing activities in Argentina's Exclusive Economic Zone (EEZ) in order to safeguard the natural resources that belong to all citizens of Argentina. This demonstrates the notion that tackling illegal fishing requires collaboration between sectors and cannot be solved by one agency alone.

4. Conclusion

The 1982 UNCLOS and the PSMA as an international legal framework have made a crucial contribution to tackling illegal fishing, particularly for coastal states. Countries that have ratified the PSMA such as Indonesia have established strict harbour surveillance to prevent illegal fishing by other parties. However, in an effort to protect countries from illegal fishing, the ratification and implementation of the PSMA can also be hampered by geopolitical factors. Argentina has yet to ratify and implement the PSMA due to a dispute with the UK over the Falkland Islands (Malvinas Islands). Although this makes Argentina the only country from Latin America that has not ratified the PSMA, the Government of Argentina has made efforts to reform the national law by implementing a fine system and collaborating between state institutions. These policies are aimed at tackling illegal fishing in Argentina's 1.6 million square kilometre Exclusive Zone.

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