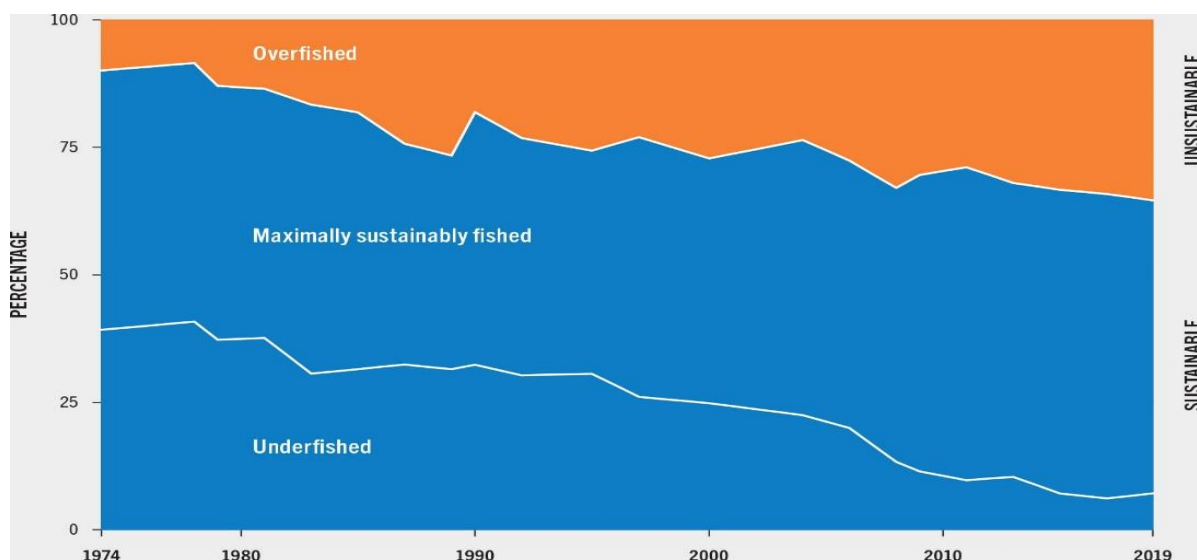


Concept Note
Illegal Fishing as a Transnational Organized Crime
Proposed by Indonesia

Over the past couple of years, we have seen a constant decline in the world's fish stock, where some readily available fish in the past decade are now becoming rare and hard to find. Based on FAO's assessment, the fraction of fishery stocks within biologically sustainable levels decreased to 64.6 per cent in 2019, which is 1.2 per cent lower than in 2017. This fraction was 90 percent in 1974. In contrast, the percentage of stocks that are fished at biologically unsustainable levels has been increasing since the late 1970s, from 10 per cent in 1974 to 35.4 per cent in 2019. This calculation treats all fishery stocks equally regardless of their abundance and catch. Biologically sustainable stocks account for 82.5 per cent of the 2019 landings of assessed stocks monitored by FAO¹.



This phenomenon is mainly caused by illegal fishing. The activities of illegal fishing not only inflict economic, environmental, and social harm upon nations with maritime resources but also substantially impact global environmental sustainability and fish stocks. Consequently, countries worldwide, with a particular focus on those in Asia and Africa, are urged to address this issue comprehensively.

The international community has various terms for addressing fisheries poaching, although the goals may differ. The most familiar terms would not be illegal fishing *per se* but could refer to transnational organised fisheries crimes, fisheries-associated crimes and fisheries crimes. This dissimilarity emerges due to the need for an agreed definition in an international legally binding agreement that could be referred to as a common starting point. Those three terms share the same notion that fisheries poaching encompasses other

¹ <https://www.fao.org/3/cc0461en/online/sofia/2022/status-of-fishery-resources.html>

transnational crimes. However, those terms leave the question concerning the best term to use.

Illegal fishing does not only involve itself; it also leads to other crimes as well, which would then involve international criminal organisations. It is a vehicle that results in other crimes being conducted, including Money Laundering, Corruption, Human Trafficking, Drug Smuggling, etc. Due to the involvement of cross-border criminal organisations and multiple crimes being conducted along with illegal fishing, it should be deducted that illegal fishing is also a Transnational Organized Crime (TOC) and falls under what a TOC is under Article 3 of the United Nations Convention Against Transnational Organized Crime (UNTOC). Under Article 3, a crime is considered a TOC if it is a serious crime and involves more than one state (transnational). Illegal fishing is a serious crime, and it is a 'gateway' crime which leads to multiple others. Even on its own, it is ruining the world's fish stock, decreasing it at a fast pace. Illegal Fishing is transnational as multiple countries are involved; a vessel from one country can illegally capture fish from another state without a licence, double-flagging where it uses flags of two different states, etc.

Deliberations concerning illegal fishing and its correlation with Transnational Organized Crime (TOC) have been convened on multiple occasions, including the following:

1. In 2001, the Food and Agriculture Organization (FAO) successfully formulated specific guidelines recognised as the "International Plan of Action to Prevent, Deter, and Eliminate IUU-Fishing" (IPOA-IUU Fishing). These guidelines were devised to prevent, impede, and eradicate IUU fishing through the implementation of comprehensive, integrated, effective, and transparent management measures. These measures also underscore the significance of considering the sustainability of fisheries resources on a global scale.
2. During the 70th session of the United Nations General Assembly, Resolution A/RES/70/75 of 2015 (para.87) acknowledged the potential interconnection between transnational organised crime and the unlawful harvesting of fish in various regions across the globe. It expressed support for nations in their endeavours to dive into the root causes, methodologies, and underlying factors contributing to illegal fishing and transnational organised crime within the fisheries industry. This support takes into account the differences in legal frameworks and international laws governing illegal fishing and transnational organised crime.
3. The African Charter on Maritime Security and Safety and Development in Africa, known as **The Lomé Charter**, was established in the year 2016. This charter is notable for its progressive recognition of IUU Fishing as a form of Transnational Organized Crime (TOC).

4. The Jakarta Concord emerged as a testament to the shared commitment of member countries of the Indian Ocean Rim Association (IORA) to address a spectrum of transboundary challenges, including crimes in the fisheries sector and environmental crimes. This collaborative approach aimed not only to enhance regional security but also to safeguard the marine environment and promote sustainable practices within the fishing industry.

Most countries use a fisheries management approach in combating the practice of IUU Fishing, which uses administrative measures to deal with violations. However, this approach has been proven to be ineffective in handling the matter due to the fact that the number of fish stock is still significantly decreasing. There is, however, an approach that can be used to overcome this matter: the crime/security approach. By using the security approach, countries shall align their domestic regulation on illegal fishing to meet the criteria as mentioned in Article 3 of the United Nations Convention on Transnational Organized Crime (UNTOC). By aligning its domestic law and regulations with the provisions of UNTOC, countries can get the advantages of the benefits in addressing illegal fishing, namely Eradicating TOCs, Facilitate International Collaboration, Tightening Cooperation on Money Laundering and Confiscation of Assets, Extradition and Mutual Legal Assistance, Enhancement of Cooperation on Joint Law Enforcement Investigation, and Pathway to the Transfer of Sentenced Persons. One of the advantages of aligning the domestic regulations with UNTOC is that countries may use UNTOC convention as a legal basis for international cooperation against the act of illegal fishing, namely for Extradition, MLA, and Transfer of Sentenced Persons without having to conclude bilateral treaties.

Indonesia seeks to invite Asian and African countries to share a common perspective and commit jointly to combat illegal fishing as a form of Transnational Organized Crime (TOC). Indonesia invites all member countries of AALCO to rekindle the spirit of combating Illegal Fishing as a Transnational Organized Crime (TOC). This is because it not only causes economic, environmental, and social losses to a nation but can also disrupt bilateral political relations among countries worldwide, especially in Asia and Africa.

In this 61st annual AALCO meeting, Indonesia seeks to encourage Asian and African countries to adopt a unified perspective and make a collective commitment regarding illegal fishing as a TOC.