

Main Articles

The Problems of the Implementation Prompt Release and Reasonable Bond before the ITLOS and in Indonesia's Experiences

Aryuni Yuliantiningsih, Ade Maman Suherman, Noer Indriati, Wismaningsih

Universitas Jenderal Soedirman, Purwokerto, Indonesia

e-mail: aryuni.yuliantiningsih@unsoed.ac.id; ade.suherman@unsoed.ac.id; noer.indriati@unsoed.ac.id; wismaningsih@unsoed.ac.id

Abstract

Law enforcement in EEZ is governed by Article 73, paragraph (2) and paragraph (3) of UNCLOS 1982 in conjunction with Article 292, which regulates prompt release, reasonable bond and non-imprisonment. This article analysed the implementation of prompt release and reasonable bond before the ITLOS and in Indonesia. The research method employed was juridical normative using secondary data, and the data analysis was conducted qualitatively. Based on the research, many cases of law enforcement disputes in the EEZ before the ITLOS related to prompt releases and reasonable bonds. The problems of reasonable bond implementation in ITLOS are because there are no details on the value of the bond, which is categorised as *reasonable*. In Indonesia, Supreme Court judges have two opinions about implementing Article 73 paragraph (3). First, the judges applied Article 73 paragraph (3) of UNCLOS to prohibit the imprisonment. Secondly, the Judge sentenced imprisonment as a substitute for a fine. We argue that judges should obey UNCLOS based on the principle of *pacta sunt servanda*. In Indonesia, prompt release and reasonable bond have been stipulated in Articles 102 and 104 of Indonesian Fisheries Law, but up to this period, it has yet to be implemented.

Keywords: law enforcement, EEZ, ITLOS, prompt release, UNCLOS

I. INTRODUCTION

Illegal fishing in the Exclusive Economic Zones (EEZs) of developing coastal States is a critical issue for the marine environment, global food security, and local economies.¹ Article 73 paragraph (1) of the United Nations Convention on the Law of Sea (UNCLOS) 1982 regulates and authorises coastal States to enforce their laws for foreign vessels committing violations that occur in the EEZ, especially violations of exploration, exploitation, conservation, and management of fisheries resources. The coastal State has the board authority to examine, detain, and judicial proceedings in accordance with the law violations committed. According to Article 73, paragraph (2) of UNCLOS, the vessel and/or its crew who are arrested and detained must be released immediately after a reasonable bond or other form of security is available. The procedure of prompt release is regulated in Article 292 of UNCLOS 1982.² Legal issues that arise in implementing this procedure are regarding the reasonableness of the security deposit for releasing the vessel.

The International Tribunal for the Law of the Sea (ITLOS) resolves international disputes regarding prompt releases. As far as the reasonableness of the bond is concerned, the ITLOS has dealt with this issue in nine cases, namely: MV Saiga 1 Case (Saint Vincent and the Grenadines v. Guinea), decided on 4 December 1997; the Camouco Case (Panama v. France), decided on 7 February 2000; the Monte Confurco Case (Seychelles v. France), decided on 18 December 2000; the Grand Prince Case (Belize v. France), decided on 20 April, 2001; the Chaisiri Reefer 2 Case (Panama v. Yemen), introduced on 3 July, 2001; the Volga Case (Russian Federation V. Australia), decided on 23 December 2002; the Juno Trader Case (Saint Vincent and Grenadines V. Guniea-Bissau) decided on 18 December 2004; the Tominaru Case and The Hosinmaru Case (Japan V. Russia Federation), decided on 6 August 2007.³ The problems in these cases are

¹Valentin J. Schatz, "Combating Illegal Fishing in the Exclusive Economic Zone – Flag State Obligations in the Context of the Primary Responsibility of the Coastal State," *Goettingen Journal of International Law* 7, no. 2 (2016): 383–414. global food security, and local economies. While past academic debate has predominantly focused on obligations of flag States to tackle so called IUU-fishing in the High Seas, the recent request for an advisory opinion submitted by the Sub-Regional Fisheries Commission to the International Tribunal for the Law of the Sea (ITLOS, Case No. 21

²Dikdik Mohammad Sodik, *Hukum Laut Internasional dan Pengaturannya Di Indonesia* (Bandung: Refika Aditama, 2014).

³"List of cases," ITLOS, accessed on 15 October 2022, <https://www.itlos.org/en/main/cases/list-of-cases/>.

related to the implementation of Article 73 paragraph (2) in conjunction with Article 292 of UNCLOS regarding the reasonableness of the security deposit for the release of the vessel.⁴

As a developing country, Indonesia also faces the problem of illegal fishing in its EEZ. Illegal fishing incurs losses in the environmental, social, and economic fields. Marine wealth value in Indonesia amounts to IDR 1,722 trillion, but Indonesian marine potency is disturbed by illegal fishing threats.⁵ The loss suffered by Indonesia due to Illegal fishing is about 20 billion dollars per year or equivalent to 240 trillion rupiah per year,⁶ threatening Indonesian coral reefs and affecting the economic activity of small fishermen due to the reduced stock in large volumes.⁷ It will impede the objective of national development as included in the constitution to bring people to justice and prosperity. Referring to Minister of Marine Affairs and Fisheries Regulation Number 37/PERMEN-KP/2017, illegal fishing can be defined as an illegal activity of fishing or one conducted in contradiction with the provision of legislation in the fisheries field.

Based on the Regulation of the Minister of Maritime Affairs and Fisheries Number 18 of 2014 concerning Fisheries Management Areas of the Republic of Indonesia, Indonesian territorial waters are divided into 11 Fisheries Management Areas (FMA). Ocean Data Inventory (ODI) newly issued in June 2020, 6 (six) marine areas most vulnerable to illegal fishing, namely: FMA 572 Indian Ocean in the west of Sumatera, FMA 711 North Natuna Sea and Karimata Strait waters, FMA 714 Teluk Tolo and Banda Sea, FMA 717 Cendrawasih Bay waters and Pacific Ocean, FMA 716 Sulawesi Sea waters and in the north of Halmahera Island, and FMA 718 Aru Sea Waters, Arafuru Sea, and Timor Sea.⁸

⁴Kresno Buntoro, Haridus, Sudardi, "Tinjauan Yuridis Prompt Release Procedure Dalam Menangani Tindak Pidana Perikanan Di Zona Ekonomi Eksklusif Indonesia," *Jurnal Hukum & Pembangunan* 50, no. 2 (2020): 492-518.

⁵Mawar Safhira Nadhila, "Upaya Mengungkap Ruang Gerak Illegal Fishing di Indonesia," PPATK, accessed on 15 August 2022, http://www.ppatk.go.id/siaran_pers/read/954/upaya-mengungkap-ruang-gerak-illegal-fishing-di-indonesia.html.

⁶Sri Mulyani Indrawati, "The Case for Inclusive Green Growth" *World Bank*, 9 June 2015, accessed on 15 August 2022, www.worldbank.org/en/news/speech/2015/06/09/the-case-for-inclusive-green-growth.

⁷Mas Ahmad Santosa, *Alampun Butuh Hukum dan Keadilan* (Jakarta: Prima Pusaka, 2016), 3.

⁸Fika Nurul Uya, Yoga Sukmana, "6 Wilayah RI paling Rawan Illegal Fishing Natuna yang Pertama," *Kompas*, 12 June 2020, accessed on 15 August 2022, <https://money.kompas.com/read/2020/06/12/203300726/6-wilayah-ri-paling-rawan-illegal-fishing-natuna-yang-pertama?page=all>.

Civil Servant Investigators (PPNS) of Fisheries have dealt with 1130 fisheries criminal cases from 2016 to 2021.⁹

Indonesia has ratified UNCLOS 1982 with Law Number 17 of 1985. This ratification gives the rights and obligations to utilise and organise any aspects related to marine wealth, including in the EEZ.¹⁰ Coastal State has sovereign rights to explore, exploit, and conserve natural or marine wealth, flight, artificial island construction, and scientific research. Indonesia has also adopted the provision of UNCLOS and governed Indonesian EEZ in Law Number 5 of 1983 on Indonesia Economy Exclusive Zone (IEEZ).¹¹

Due to UNCLOS ratification by Indonesia, Article 73, paragraph (2), and Paragraph (3) of UNCLOS 1982 have been adopted in Article 102 and Article 104 of Law Number 45 of 2009 on the Amendment to Law Number 31 of 2004 on Fisheries. Article 102 of Fisheries Law stipulated that the provisions on imprisonment shall not be applicable for criminal acts in fishery occurring within the IEEZ except if there is an agreement between States. This provision encourages the perpetrator not to comply with their obligation to pay a fine.¹² Furthermore, Article 104 paragraph (1) of the Fisheries Law stipulates that implementations to release vessels and/or crews arrested for committing criminal acts in the IEEZ can be carried out at any time before any decision from the fisheries court to submit an appropriate amount of security deposit, the determination of which is made by the court.¹³

In practice, there are differences of interpretation among the judges of the Indonesian Supreme Court concerning the implementation of Article 73

⁹Sherief Maronie, "Telaah Penegakan Hukum tindak Pidana Perikanan di IEEZ," DJPSDKP, 28 May 2018, accessed on 15 August 2022, [https://kkp.go.id/an-component/media/upload-gambar_pendukung/djpsdkp/Penegakan%20Hukum%20TPP%20di%20Wilayah%20ZEEI%20\(11%20Mei%2018\).pdf](https://kkp.go.id/an-component/media/upload-gambar_pendukung/djpsdkp/Penegakan%20Hukum%20TPP%20di%20Wilayah%20ZEEI%20(11%20Mei%2018).pdf).

¹⁰I Dewa Ayu Maheswari Adiananda, I Gede Eggy Bintang Pratama, and Ida Ayu Brahmantari Manik Utama, "Problematika Penegakan Hukum Dalam Tindak Pidana Illegal Fishing Di Wilayah Perairan ZEE Indonesia," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 2 (2019): 237-246.

¹¹Amelia Rahmi and Melda Kamil Ariadno, "Sinking of Vessel as the Country's Efforts in Keeping the Utilisation of Sustainable Fish Resources," *E3S Web of Conferences* 74, (January 2018), <https://doi.org/10.1051/e3sconf/20187412002>.

¹²See Maronie, "Telaah Penegakan Hukum EEZ."

¹³Maya Shafira, et al., "Optimisation of Promptly Released As Primum Remedium in Committing Illegal Fishing Against Foreign Fishers," *International Journal of Business, Economics and Law* 24, no. 5 (August 2021): 24.

paragraph (3) of UNCLOS. First, Indonesia should comply with the UNCLOS based on *the pacta sunt servanda* principle. The sanction may not include imprisonment or any other form of corporal punishment without agreements between the coastal State and the States concerned. In other words, the coastal State only sentences a fine. Second, the judges can sentence imprisonment as a substitute for a fine because many perpetrators cannot pay the fine.¹⁴

In an attempt to enforce the law against illegal fishing, Indonesia has included the provisions of UNCLOS 1982 in its Fisheries Law. The Supreme Court has also issued Supreme Court's Circular (SEMA) Number 3 of 2015, which prohibits the defendant from being imprisoned as a substitute for the fine. However, the existence of SEMA becomes a problem for Supreme Court judges in deciding illegal fishing cases.¹⁵ Through the SEMA issuance, the court's verdict is expected to refer to only the sentence of fine without imprisonment as a substitute for the fine.

In Indonesia, the prompt release is regulated in Article 15 of Law Number 5 of 1983 concerning Indonesian EEZ and in Article 104 paragraph (1) of Law Number 45 of 2009 on Fisheries. Implementing prompt releases can be an alternative way to tackle illegal fishing in Indonesia, but this regulation has never been used to ensnare illegal fishing perpetrators. This article aimed to examine the implementation of Article 73, paragraph (2) and paragraph (3) related to prompt release and reasonable bond before the ITLOS and in Indonesia.

This research was conducted regarding normative juridical research focused on analysis of the implementation of article 73 (2) and (3) of the UNCLOS in positive law. Secondary data resources include primary legal sources, secondary legal sources, and tertiary legal sources. Data analysis was conducted qualitatively and presented in description and tabulation to reveal information, process, and analysis results deeply and understandably.¹⁶

¹⁴Agustina Merdekawati, et al., "UNCLOS 1982 and The Law Enforcement Against Illegal Fishing In Indonesia: Judges' Diverging Perspectives," *Jurnal Mimbar Hukum* 33, no. 1 (2021): 39-62.

¹⁵"SEMA No 3 of 2015," *Konsultanhukum*, accessed on 15 August 2022. <https://konsultanhukum.web.id/wp-content/uploads/2017/06/SEMA-NO-3-2015-Rapat-Pleno-MA-2015.pdf>.

¹⁶Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Rajagrafindo Persada, 2007), 12.

II. LAW ENFORCEMENT IN EEZ REGARDING PROMPT RELEASE AND REASONABLE BOND UNDER UNCLOS

The Exclusive Economic Zone (EEZ) is an area beyond and adjacent to the territorial sea which extends up to 200 miles from the baseline. In other words, the EEZ's inner limit is the outer limit of the territorial sea, and the outer limit is 200 nautical miles from the baseline. Based on Article 56, the coastal state has sovereign rights to explore, exploit, conserve, and manage living and non-living natural resources from waters, seabeds, and subsoil.¹⁷

Article 58, paragraph (3) of UNCLOS provides that other States have two duties when exercising their rights in the EEZ. First, they have a “due regard” obligation similar to that of coastal States. In exercising their rights in the EEZ, other States must have due regard to the rights and duties of the coastal State in the EEZ. Second, other States must comply with the laws and regulations adopted by the coastal State, but only such laws that are in accordance with the provisions of the Convention and other rules of international law, and only in so far as they are not incompatible with the UNCLOS provisions on the EEZ.¹⁸

One of the infringements against other states' EEZs is illegal fishing. The term “illegal fishing” is stipulated in the International Plan of Action to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing of 2000. Illegal fishing refers to fishing activities conducted by foreign vessels without permission in waters under the jurisdiction of another state or which contravene its fisheries laws and regulations in some other manner.¹⁹

To eradicate illegal fishing in EEZ, the state should be able to enforce fisheries laws effectively. According to UNCLOS 1982, enforcement in the EEZ may include boarding, inspecting, arrests and judicial proceedings. Penalties may not include imprisonment and other forms of corporal punishment. Even bonds or security for the prompt release of arrested vessels and crews may be reasonable. Article 73 paragraph (2) UNCLOS provides that arrested vessels and crews must be promptly released upon posting of a reasonable bond or other security.

¹⁷Kentaro Furuya, “Law Enforcement over Fisheries Activities in Contested EEZs,” *Indonesian Journal of International Law* 17, no. 4 (2020): 441.

¹⁸Donald Rothwell, et al., *The Oxford Handbook of the Law of the Sea*, (Oxford: Oxford University Press, 2015), 165.

¹⁹FAO, *International Plan of Action to Prevent, Deter and Eliminate IUU Fishing* (Rome: FAO, 2001).

The prompt release procedure is regulated in Article 292 of UNCLOS 1982. Prompt release procedures are innovations and new provisions in the law of the sea and international law. This procedure is designed to balance interests between the coastal and flag States.²⁰ The definition of “reasonable” is not found in the provision. Overall, UNCLOS puts forward the preconditions that bond or guarantee needing improvement should be reasonable without further indicating how the idea of reasonable bond is applied to the practice.²¹ According to Article 292 of UNCLOS, when the authorities of a State Party have detained a vessel flying the flag of another State Party, and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within ten days from the time of detention to a court or tribunal accepted by the detaining State.

After submitting a certain amount of security deposit or other financial guarantees determined by the court, the detaining State must immediately release the vessel or its crew. Therefore, Article 292 reconciles the interest of the flag State to have its vessel and crew released promptly with the interest of the detaining State to secure the observance of its laws and regulations and “strikes a fair balance between the two interests.” Such balance depends upon a “reasonable” bond, which is the sole condition of the release. The ITLOS task includes evaluating the reasonableness of the bond or other financial security required by detaining States as a condition for release and if need be, determining whatever bond or other financial security is reasonable. The court or the tribunal

²⁰Philippe Gautier, “The International Tribunal for the Law of the Sea,” in *Legitimacy of Unseen Actors in International Adjudication*, ed. Freya Baetens (Cambridge: Cambridge University Press, 2019), .

²¹Abdul Ghafur Hamid and Khin Maung Sein, “Prompt Release of Vesel and Crew under Article 292 of the UNCLOS: Is It an Adequate Safeguard against the Powers of Coastal States?,” *Journal of Applied Sciences Research* 7, Special Issue (2011): 2421-2431. seizure of the vessels, and their detention that may extend for a considerable length of time. What makes the matter worst is the extension by the UNCLOS 1982 of the coastal State’s powers to the new legal regime of the exclusive economic zone that may extend up to 200 nautical miles from the baselines. These extensive enforcement powers of the coastal States may cause hardship to foreign crew and ship owners. To strike a balance between the interests of the coastal State and those of the flag State, Article 292 of the UNCLOS empowers the International Tribunal for the Law of the Sea (ITLOS

under Article 292 should develop detailed rules in their jurisprudence, for reasonableness is challenging to apply without detailed criteria.

Based on Article 73 paragraph (2) in conjunction with Article 292 paragraph (1), a bond or other form of security is given as a precondition of prompt release for a foreign vessel arrested by a coastal state. However, UNCLOS 1982 does not further govern the details of bonds or security amounts for the prompt release of foreign vessels arrested by coastal states. Hence, the reasonable bond amount can be decided to refer to the practice in the ITLOS.²² Considering the cases in ITLOS in the “prompt release process,” there is always a tendency for the plaintiff to ask for a large amount of bond, so some problems often arise concerning the feasible compensation and prompt release.

The prompt release of a vessel can be requested on the ground of the violation by the coastal State of UNCLOS Article 73 paragraph (2), Article 220 paragraph (7) and paragraph (8), Article 226 paragraph (1) “b” and “c. The primary condition for implementing Article 292 of UNCLOS is that there must be an element of detention carried out by a coastal state that does not meet the provisions of UNCLOS. In other words, the Tribunal can only examine disputes where the vessel has been detained under UNCLOS, which expressly regulates the vessel’s release after submitting a security deposit or other financial guarantee.²³ At the end of the tenth day of detention, if the parties agree to settle their dispute through the courts, under Article 292 paragraph (1) of UNCLOS, the flag State has two alternatives: whether to apply for release to the court or tribunal agreed by the detention State or submit an implementation to the ITLOS. This implies that after the expiry of the ten-day period, the Tribunal shall have exclusive and automatic jurisdiction, which the Responding State cannot contest. The procedure of prompt release of vessels and crews is regulated explicitly in ITLOS Rules from Article 110 to Article 114.

²²Usmawadi Amir, “Penegakan Hukum IUU Fishing Menurut Unclos 1982 (Studi Kasus: Volga Case) 1,” *Jurnal Opinio Juris* 12, (2013): 68–92.

²³Seline Trevisanut, “Twenty Years of Prompt Release of Vessels: Admissibility, Jurisdiction, and Recent Trends,” *Ocean Development and International Law* 48, no. 3–4 (June 2017): 300–312.

III. THE IMPLEMENTATION OF PROMPT RELEASE AND REASONABLE BOND IN ILLEGAL FISHING CASES BEFORE THE ITLOS

Several cases were submitted to the ITLOS to determine the reasonableness of the bond. It is interesting to discuss precisely what factors must be paid attention to in determining the reasonableness of a security deposit. The financial security or other financial guarantee must be fair because that is one of the purposes of the prompt release. The UNCLOS and ITLOS Rules need an explanation of an appropriate amount. Therefore, the factors to be considered in assessing the security deposit and determining what constitutes an appropriate guarantee fluctuate from case to case.

After the Tribunal declares it has jurisdiction to examine the request for prompt release and determine that the implementation has been accepted, the Tribunal orders the release of the vessel with the obligation to provide an appropriate deposit or other financial guarantee. The security deposit to be determined by the Tribunal must be “reasonable.” The reasonableness requirements for the security deposit are regulated in Article 292, paragraph (1) and Article 73, paragraph (2) of UNCLOS. The Tribunal determines “the amount, nature and form of the security deposit or other financial guarantee to be submitted.”²⁴

Up to 2022, nine cases have been submitted to ITLOS. Under Article 292, namely:²⁵ *MV Saiga* (Saint Vincent and Grenadines v. Guinea), *Camouco* (Panama v. Prancis), *Monte Confurco* (Seychelles v. Prancis), *Grand Prince* (Belize v. France), *Chaisiri Reefer 2* (Panama v. Yaman), *Volga* (Russian Federation v. Australia), *Juno Trader* (Saint Vincent dan Grenadines v. Guinea-Bissau), *Hoshinmaru dan Tomimaru* (Jepang v. Federasi Rusia). Of the nine cases, six of them (*Saiga*, *Camouco*, *Confurco*, *Volga*, *Hoshinmaru* and *Juno Trader*) were ordered to be released on lower bond; the Tribunal declared it had no jurisdiction over the *Grand Prince* case, and the hearing was terminated, the parties settled the dispute on an ad hoc basis. Referendum on the *Chaisiri Reefer case 2*, and there is no object of dispute in the *Tomimaru case*.²⁶

²⁴“Prompt Release of Vessels and Crew,” ITLOS, accessed 12 August 2022, <https://www.itlos.org/en/main/jurisdiction/contentious-cases/prompt-release-of-vessels-and-crews/#:~:text=An%20application%20for%20the%20release,vessel%20or%20on%20its%20behalf>.

²⁵See “List of Cases.”

²⁶See Buntoro, Haridus, Sudardi, “Tinjauan Yuridis Prompt Release,” 2.

The main issue of the dispute is the reasonable bond set by the coastal State. The ITLOS' approach to the reasonableness of the bond has proven to be a significant hurdle for effective and deterring enforcement measures. It considers that the bond must be financial, excluding non-financial securities, such as "good-behavior bonds," which are conditions to carry a Vessel Monitoring System [VMS]. Further concerns are the limitation on the amount that can reasonably be claimed as a bond and the vague criteria that ITLOS uses to determine the amount, which leads to legal uncertainty.²⁷

In the *Saiga* case, the reasonableness criteria include the amount, nature and form of the security deposit or other financial guarantee" and "the existence of a balance of the amount, form and nature of the security deposit or other financial guarantee."²⁸ In the *Camuoco* case, the Tribunal underlined the relevant factors to the assessment of the reasonableness of the bond, including the severity of the alleged infringement, the type of punishment imposed, the value of the vessel and cargo seized, the form and amount of the security deposit determined by the detaining State.²⁹ These factors are the guiding criteria in assessing the reasonableness of the security deposit, which describes the balance of interests under Articles 73 and 292 of UNCLOS.³⁰ As in the case of the *MV Volga*, irrelevant factors are additional non-financial conditions, such as the obligation for a vessel to carry a monitoring and surveillance system as regulated by the Commission for the Conservation of Antarctic Marine Living Resource (CCAMLR).³¹

In accordance with Article 111, paragraph (2) (b) of the ITLOS Rules, the implementation must include data relevant to determining the value of the vessel. Thus, the ITLOS Rules also determine the value of the vessel as an element for determining the reasonableness of the security deposit.

Based on an explanation of the factors that must be considered in evaluating security deposits, there are fluctuations from case to case. In the *Monte Confurco*

²⁷Schatz, "Combating Illegal Fishing".

²⁸ITLOS, "The *Saiga* Case," Para 82.

²⁹"The *Camouco* Case (Pan. v. Fr.)," accessed 12 August 2012, <http://www.itlos.org/start2>.

³⁰Jianjun Gao, "Reasonableness of the Bond under Article 292 of the LOS Convention: Practice of the ITLOS," *Chinese Journal of International Law* 7, no. 1 (2008): 115-142.

³¹"The *Volga* Case," *Jusmundi*, accessed on 15 August 2022, <https://jusmundi.com/en/document/decision/en-the-volga-case-russian-federation-v-australia-judgment-monday-23rd-december-2002>.

case, the Tribunal decided that the value of the fish and fishing gear should be considered as a relevant factor in assessing the reasonableness of the bond.³² The problem in the Monte Confurco case is that the fines determined by France should be smaller or in accordance with the reasonableness. The French side determined that to release the vessel, it must first pay 56,400,000 FF. The court was of the opinion that the number of fish and fishing gear seized was 56,400,000 FF, which the French Court decided did not meet the element of fairness in accordance with Article 73 paragraph (2) of UNCLOS. In his separate statement, Judge Ndiaye stated that the appropriateness or fair amount was determined based on the factual and relevant circumstances of the case.³³

In the MV Volga case, the Tribunal stated that the sale of the catch has no relevance to the guarantee to be set for the prompt release of the vessel and its crew.³⁴ Similarly, in the case of the MV Camouco, the Tribunal decided that the value of the vessel may not be a determining factor in the assessment of the amount of the bond or other financial guarantee, whereas, in the Volga case, it was decided it was reasonable to arrange a security deposit equal to the price of the vessel, fuel, lubricants and fishing gear.³⁵

There are two schools of thought to determine the reasonableness of a bond. First, the consideration must be based on the national law of detention State. The Tribunal is advised to respect the considerations used by domestic courts in determining bond for prompt release. Second, reasonable or unreasonable, a bond is determined based on the assessment of an independent body, and it does not necessarily have to comply with the criteria set by the detaining State through the decisions of judges or national legislators.³⁶

The ITLOS, as an international tribunal, has implemented the provisions of Article 73, paragraphs (2) and (3), and Article 292 of UNCLOS regarding prompt release procedures and determining the reasonable bond, but until now, there have been problems determining the reasonable bond because there is no special regulation.

³²Fatihah Falhum Salim, "The Monte Corfucio Case: Judgment of International Tribunal for the Law of the Sea," *Indonesian Journal of International Law* 2, no. 3 (2005): 617-619.

³³"Declaration of Judge Ndiaye, Case No.6 International Tribunal for the Law of the Sea," accessed 12 August 2022, <https://www.itlos.org/en/cases/list-of-cases/case-no-6/>.

³⁴See Trevisanut, "Twenty Years of Prompt," 1-13.

³⁵ITLOS, "The Volga Case," Para 73.

³⁶See Buntoro, Haridus, Sudardi, "Tinjauan Yuridis Prompt Release," 503.

IV. THE IMPLEMENTATION OF ARTICLE 73 PARAGRAPH (3) OF UNCLOS 1982 REGARDING NON-IMPRISONMENT PENALTY IN ILLEGAL FISHING CASES IN INDONESIA

Indonesia as an archipelagic State is internationally recognised based on UNCLOS 1982, ratified with Law No. 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea. Indonesia has strategic positions and great potential fisheries resources that attract the attention of foreign fishing vessels to commit illegal fishing. Illegal fishing has seriously threatened the Indonesian EEZ, generating social, economic, and environmental losses. Based on data from the Ministry of Marine and Fisheries Affairs, the number of fisheries crimes from 2017 to 2021 was 1130 cases. Indonesia has made many attempts to give the actors of illegal fishing a deterrent effect, one of which is to sink the vessel.³⁷

Table 1. Criminal Data Case in Marine Affairs and Fisheries Dealt With by Fisheries Surveillance during 2016-2021³⁸

Year	Number of Case	Preliminary examination	Administrative Sanction	Other Action	Legal Process
2021	213	-	36	10	167
2020	139	-	30	3	106
2019	151	-	32	5	111
2018	193	-	31	1	161
2017	197	-	27	7	163
2016	237	-	12	5	230
TOTAL	1130	0	168	31	931

Foreign fisheries vessel entering into IEEZ territory is arrested by the Fisheries Surveillance Vessel of the Directorate General of Marine and Fisheries Resources of the Ministry of Marine Affairs and Fisheries with *modus operandi* commonly used, such as having no permit (*SIUP*, *SIPI* and *SIKPI*), using harmful and prohibited catching tools, breaking incompatible fishing ground, transshipment and inactive Vessel Monitoring System (VMS).

³⁷Yordan Gunawan and Hanna Nur Afifah Yogar, "Law Enforcement on Illegal Fishing of Illegal Foreign Vessels Within EEZ of Indonesia," *KnE Social Sciences* 3, no. 14 (2019): 656.

³⁸"Recapitulation of data on fishery crimes (Rekapitulasi Data Tindak pidana perikanan)," kkp, accessed 12 August 2022, <https://kkp.go.id/an-component/media/upload-gambar-pendukung/Ditjen%20PSDKP/Humas%20PSDKP/Data%20TPKP%2031%20Desember%202021.pdf>.

In contrast to fisheries disputes before the ITLOS, most cases in Indonesia are due to the implementation of Article 73 paragraph (3), which prohibits imprisonment for EEZ violations. The Judge makes two arguments, the first prohibiting imprisonment and the second using imprisonment as a substitute for a fine. Indonesia has ratified UNCLOS 1982, so Article 73 paragraph (3) of UNCLOS has been adopted into Article 102 of the Fisheries Law that governs the invalidity of imprisonment in IEEZ unless there has been an agreement between the Indonesian government and the corresponding state. In other words, imprisonment or corporal punishment should not be imposed in Indonesia.

Based on the data of verdicts on the official website of the Supreme Court's verdict,³⁹ there are 192 verdicts related to fisheries crimes, of which 101 are related to crimes occurring in IEEZ territory. The interesting point is the difference in verdicts concerning fine sentences in IEEZ. Some verdicts sentence a fine, and others sentence imprisonment as a substitute for a fine. In 2015, the Supreme Court enacted Circular Letter (SEMA) Number 3 of 2015, which stated the invalidity of imprisonment as a substitute for a fine for illegal fishing. SEMA stipulates that "in cases of illegal fishing in the IEEZ, convicts can only be subject to fines without imprisonment as a substitute for the fines." It is hoped that by issuing this SEMA, the court's decision will only refer to the imposition of fines, with no alternative imprisonment as a substitute for a fine. It contradicts Article 30, paragraph (2) of the Criminal Code, which states, "If the fine is not paid, it is replaced by imprisonment."

For example, there were 19 verdicts at the appeal to the Supreme Court from 2013 to 2015, 12 sentencing a fine and seven sentencing imprisonment as a substitute for a fine. To reaffirm the preceding rules, Article 104 paragraph (1) of the Fisheries Law governs the implementation for the release of a foreign vessel and its attendants arrested if the flag state has made an attempt to provide a reasonable bond or guarantee, and the authority of fisheries justice makes the decision. This provision is adopted from Article 73, paragraph 2, of UNCLOS 1982, which states that "arrested vessels and their crews shall be promptly released upon the posting of a reasonable bond or other security."

³⁹"The Supreme Court's verdicts," Mahkamah Agung, accessed 12 August 2022, <https://putusan.mahkamahagung.go.id>.

Since the enactment of SEMA, the fine has been sentenced in 14 verdicts; there were three verdicts in 2016, in Medan Fisheries Court, Pontianak Fisheries Court, and Jayapura Provincial Court, and there were 11 verdicts in 2017, all of which were in Tanjung Pinang Fisheries Court. Meanwhile, imprisonment has been sentenced as a substitute for a fine in 28 verdicts: 13 verdicts in 2016, 1 verdict in Ternate District Court, eight verdicts in Ranai District Court, two verdicts in Pekanbaru Provincial Court, and 1 verdict in Jayapura Provincial Court; and 15 verdicts in 2017, 1 verdict in Aceh District Court, three verdicts in Tanjung Pinang Fisheries Court, and 11 verdicts in Fisheries Court. Based on the data, it can be known that SEMA Number 3 of 2015 did not significantly influence the chamber of judges in applying Article 30 paragraph (2) of the Criminal Code to impose imprisonment as a substitute for a fine related to fishing crimes in the IEEZ.

The chamber of judges states that Article 73 paragraph (3) of UNCLOS prohibits the sentence of imprisonment or physical punishment as the primary punishment, as mentioned in Article 10 of the KUHAP (Code of Criminal Procedure), while imprisonment substituting for a fine is not basic punishment but a means of compelling the defendant to pay the fine sentenced. It is the solution used if the defendant is unable to pay the fine sentenced, and the imprisonment substitute for the fine is regarded as facilitating the verdict itself.

According to the judges who give imprisonment penalties or imprisonment as a substitute for a fine, UNCLOS only prohibits physical punishment or corporal punishment. The sentence of imprisonment as a substitute for the fine will be the solution or the way out for the defendants who are incapable of or unwilling to pay the fine. The UNCLOS does not explain the scope of imprisonment. Judge Lucky's opinion can be used as a reference related to the issue of imprisonment. According to Judge Lucky in his separate opinion in the *M/V Virginia Case (Panama V. Guinea-Bissau)*, he said that the restraint of passport had been categorised as *imprisonment*, so Guinea-Bissau has breached Article 73 paragraph (3) UNCLOS:

The word "imprisonment" is not defined in Article 73, paragraph 3 of the Convention. Therefore, a meaning relevant to the circumstances is necessary; the word "imprisonment" in Article 73, paragraph 3, must be given a broad and generous meaning. The meaning should not be that the individual must be sent to a prison and confined in a cell. The term imprisonment means the restraint

of a person contrary to his will; in other words, it means a deprivation of one's liberty. As to what will amount to imprisonment, the most apparent modes are confinement in a prison or private house (in this case, a vessel). Thus, the crew were deprived of their right to liberty and freedom.⁴⁰

Judge Lucky argued that the word "imprisonment" should be defined broadly, not only as an individual imprisoned or confined in a jail but it should be defined as the restriction of an individual's freedom so that the restraint of passport and the detention of vessel attendants inside the vessel with the guard is categorised into *imprisonment*. According to Judge Lucky's opinion, the word *imprisonment* in Article 73 paragraph (3) of UNCLOS can be defined broadly, not only as a jail sentence but any form of restriction to an individual's freedom. Considering this argument, imprisonment is not limited to a jail sentence. Any form of restriction on personal freedom qualifies as imprisonment. It means that imprisonment as a substitute for a fine should not be sentenced to foreign perpetrators who commit fisheries crimes in EEZ because it restricts personal freedom. The imprisonment as a substitute for a fine is categorised under the definition of imprisonment.⁴¹ The authors argue that the judges should prohibit the sentence of imprisonment as a substitute for a fine because Indonesia has ratified UNCLOS. Therefore, the government should apply the provision based on the *pacta sunt servanda* principle.

V. PROBLEMS OF PROMPT RELEASE IMPLEMENTATION IN INDONESIA

In Indonesian law, prompt releases are generally regulated in Article 15 of Law Number 5 of 1983 concerning Indonesia's EEZ and in Article 104 paragraph (1) Law Number 31 of 2004 concerning Fisheries as already stated amended by Law Number 45 of 2009 concerning Amendment of Law Number 31 of 2004 on Fisheries. This article adopts the provisions of Article 73 paragraph (2) in conjunction with Article 292 paragraph (1) of UNCLOS 1982. The provision of security deposits is one of the conditions for the prompt release of a foreign vessel detained by the coastal state; however, UNCLOS 1982 did not provide further

⁴⁰"Separate Opinion of Judge Lucky," ITLOS, accessed 5 August 2022, https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.19/judgment_published/C19_Lucky.pdf.

⁴¹See Adiananda, Pratama, and Utama, "Problematika Penegakan Hukum,"

details. The amount of the security deposit or other financial guarantee must be “reasonable,” so determining the appropriate security deposit amount can be based on practice in cases that ITLOS has decided. The Indonesian legislation regulates an implementation to release the vessel and/or people arrested for committing fisheries crime in the IEEZ, which can be done at any time before there is a decision from the fisheries court by submitting an appropriate amount of security deposit, the fisheries court makes the determination.

Article 104 of the Fisheries Law is a provision regarding the bond system (guarantee system) in the form of money, which the fisheries court determines. However, it has not clearly and definitively regulated the mechanism and factors that must be met in determining the reasonableness of the guarantee (amount, nature and form of the security deposit), the deadline for submitting the implementation, and the applicant’s status as the flag State of the vessel.

Administratively, several implementing regulations, namely (1) the mechanism for requesting release, (2) the mechanism for determining the resealable bond, and (3) the institution for assessing the amount of the guarantee value, need to be identified. In international relations, clarification is needed regarding (1) the fairness if Indonesia offers an active prompt release through a notice, in accordance with Article 73 paragraph (4) UNCLOS and (2) the responsibility of the flag state for the impact of the prompt release if a court decision determines that the crew is subject to penalties of fines and evidence in the form of ships seized for the state or destroyed.

In practice, Indonesia has never implemented a prompt release mechanism because there are doubts and differences of interpretation regarding the implementation of the mechanism. Regarding differences in interpretation, there are two opinions, namely:⁴²

1. The prompt release mechanism does not stop the criminal investigation and prosecution process that is being or will be carried out because the word used in Article 104 paragraph (1) is a guarantee that it means that the case process will continue or

⁴²Rohmin Dahuri, “Penerapan Ketentuan Pelepasan Segera (Prompt Release) Kapal dan Awak Kapal Pelaku Illegal Fishing di Zona Ekonomi Eksklusif Indonesia,” *Tokoh Kita*, 11 September 2020, <https://www.tokohkita.co/read/20200911/1432/aturan-prompt-release-bisa-tekan-kerugian-akibat-iuu-fishing>.

2. By implementing the prompt release mechanism, the criminal investigation and prosecution process that will be carried out must be stopped to create legal certainty.

The term “guarantee” is important in interpreting that the criminal law process continues. Based on several ITLOS decisions, the coastal state must release the vessel and its crew as soon as the “reasonable bond” stipulated by the ITLOS is paid. This has prompted some academics to translate the term “bond” in the context of a prompt release with the term compensation. They argue that ITLOS has changed the implementation of criminal liability to civil liability regarding the prompt release mechanism.⁴³

The determination of reasonable bonds must be appropriate without (1) overestimating the price of the detained vessel, (2) the fine for the captain/vessel owner is too high, and (3) including non-financial components. The amount of reasonable bond determined must take into account (1) the selling value of fish resulting from IUU fishing, (2) the value of the vessel’s price, (3) the value of fuel and lubricants, (4) the value of fishing equipment; and (5) fines for the captain/owner.⁴⁴ In practice, the fine for the captain/vessel owner is too high and includes non-financial components. The Tribunal stated, “the bond amount must be commensurate with the degree of guilt of the alleged infringement.”

Substances need further regulation regarding the mechanism and factors that must be met in determining the reasonableness of the guarantee (amount, nature and form of the security deposit), the deadline for submitting the implementation, and the applicant’s status as the vessel’s flag State. The procedure has never been implemented and still requires implementing regulations.

The provision of the reasonable bond is an alternative settlement of the action fisheries crime by foreign vessels in IEEZ that can be used as a source of Non-Tax State Revenue (PNBP) by looking at the number of criminal acts that occurred in IEEZ, as well as the perpetrators’ living expenses while undergoing treatment detention period or high cost of securing evidence if the settlement of foreign vessel cases in IEEZ is carried out through a judicial mechanism that

⁴³Shams Al Din Al Hajjaji, “Criminal Liability for Environmental Damage: National Courts versus the International Tribunal for the Law of the Sea,” *Groningen Journal of International Law* 5, no. 1 (2017): 96-114.

⁴⁴See Dahuri, “Penerapan Ketentuan Pelepasan Segera,”.

takes quite a while. Appropriate security deposit implementation can minimise Indonesia's losses due to fisheries crime.⁴⁵ The prompt release is implemented to balance the coastal and flag States in realising justice, benefit and sustainability in managing fisheries resources. The prompt release for illegal fishing in Indonesia has never been implemented, although it has been regulated in the Fisheries Law. Indonesia has the opportunity to obtain reasonable bonds to be a solution to handling violations of IUU fishing by foreign vessels in the IEEZ. It is crucial for Indonesia as a party to UNCLOS to have national regulations to implement the obligation for prompt release. That way, there will be certainty about the legal framework that currently does not exist.

VI. CONCLUSION

ITLOS has handled nine cases of prompt releases and reasonable bonds. The prompt release procedure aims to ensure the implementation of the immediate release of the ship and/or its crew who have been detained after providing an appropriate security deposit. The prompt release procedure is an instrument to balance interests between the coastal and flag States. The flag State is interested in obtaining the release of the vessel and/or crews. On the other hand, the detaining state is interested in ensuring the implementation of justice and the payment of a fine. The problems of prompt release cases regarding the reasonableness of the bond. The ITLOS made significant contributions to determining whether the bond's criteria were reasonable or unreasonable; however, the ITLOS does not yet have general provisions to determine it.

ˆ In Indonesia, the main problem of law enforcement in EEZ related to the implementation of Article 73 paragraph 3 of UNCLOS regarding the prohibition of imprisonment to foreigners committing a crime in EEZ. There are two kinds of the Supreme Court's verdicts. First is the judge's verdict that only sentences a fine; second is that sentence imprisonment is a substitute for the fine. The prompt release procedure is regulated in Article 104, paragraph (1) of Fisheries Law, but this procedure has never been implemented in Indonesia. It requires regulations related to the mechanism for determining the reasonableness of the guarantee (amount, nature and form of the security deposit), the time limit for submitting the implementation, and the applicant's status as the vessel's flag State.

⁴⁵*Ibid.*

REFERENCES

- Adiananda, I Dewa Ayu Maheswari, I Gede Eggy Bintang Pratama, and Ida Ayu Brahmantari Manik Utama. "Problematika Penegakan Hukum Dalam Tindak Pidana Illegal Fishing Di Wilayah Perairan ZEE Indonesia." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 2 (2019): 237-246.
- Al Hajjaji, Shams Al Din. "Criminal Liability for Environmental Damage: National Courts versus the International Tribunal for the Law of the Sea." *Groningen Journal of International Law* 5, no. 1 (2017): 96-114.
- Amir, Usmawadi. "Penegakan Hukum IUU Fishing Menurut UNCLOS 1982 (Studi Kasus: Volga Case)." *Jurnal Opinio Juris* 12, (2013): 68-92.
- Buntoro, Kresno, Haridus, and Sudardi. "Tinjauan Yuridis Prompt Release Procedure Dalam Menangani Tindak Pidana Perikanan Di Zona Ekonomi Eksklusif Indonesia." *Jurnal Hukum & Pembangunan* 50, no. 2 (2020): 492-518.
- Dahuri, Rohmin. "Hasil Prompt Release bisa untuk kesejahteraan rakyat." *Republika*, 11 September 2020. <https://www.republika.co.id/berita/qghe4n374/hasil-prompt-release-bisa-untuk-kesejahteraan-masyarakat>.
- Dahuri, Rohmin. "Penerapan Ketentuan Pelepasan Segera (*Prompt Release*) Kapal dan Awak Kapal Pelaku Illegal Fishing di Zona Ekonomi Eksklusif Indonesia." *Tokoh Kita*, 11 September 2020.
- Din Al Hajjaji, Shams Al. "Criminal Liability for Environmental Damage: National Courts versus the International Tribunal for the Law of the Sea." *Groningen Journal of International Law* 5, no. 1 (October 2017): 96-114. <https://doi.org/10.21827/59db695fa197a>.
- FAO, International Plan of Action to Prevent, Deter and Eliminate IUU Fishing. FAO. Rome: FAO, 2001.
- Furuya, Kentaro. "Law Enforcement over Fishery Activities in Contested EEZs." *Indonesian Journal of International Law* 17, no. 4 (2020): 439-454.
- Gao, Jianjun. "Reasonableness of the Bond under Article 292 of the LOS Convention: Practice of the ITLOS." *Chinese Journal of International Law* 7, no. 1 (2008): 115-142.

- Gautier, Philippe. "The International Tribunal for the Law of the Sea." In *Legitimacy of Unseen Actors in International Adjudication*, edited by Freya Baetens (Cambridge: Cambridge University Press, 2019).
- Gunawan, Yordan, and Hanna Nur Afifah Yogar. "Law Enforcement on Illegal Fishing of Illegal Foreign Vessels Within EEZ of Indonesia." *KnE Social Sciences* 3, no. 14 (2019): 656-666.
- Hamid, Abdul Ghafur, and Khin Maung Sein. "Prompt Release of Vesel and Crew under Article 292 of the UNCLOS: Is It an Adequate Safeguard against the Powers of Coastal States?" *Journal of Applied Sciences Research* 7, no. Special Issue (2011): 2421-2431.
- Indrawati, Sri Mulyani. "The Case for Inclusive Green Growth" *World Bank*, 9 June 2015. Accessed on 15 August 2022. www.worldbank.org/en/news/speech/2015/06/09/the-case-fo-inclusive-green-growth.
- Maronie, Sherief. "Telaah Penegakan Hukum Tindak Pidana Perikanan Di Wilayah Perairan Zona Ekonomi Eksklusif Indonesia," DJPSDKP, 28 May 2018. Accessed on 15 August 2022. [http://kkp.go.id/an-component/media/upload-gambar-pendukung/djpdspkp/Penegakan Hukum TPP di Wilayah ZEEI \(11 Mei 18\).pdf](http://kkp.go.id/an-component/media/upload-gambar-pendukung/djpdspkp/Penegakan_Hukum_TPP_di_Wilayah_ZEEI_(11_Mei_18).pdf).
- Merdekawati, Agustina, Taufiq Adiyanto, and Irkham Afnan. "UNCLOS 1982 and the Law Enforcement Against Illegal Fishing in Indonesia: Judges' Diverging Perspectives." *Jurnal Mimbar Hukum* 33, no.1 (2021): 39-62.
- Nadhila, Mawar Safhira. "Upaya Mengungkap Ruang Gerak Illegal Fishing di Indonesia," PPATK. Accessed on 15 August 2022. http://www.ppatk.go.id/siaran_pers/read/954/upaya-mengungkap-ruang-gerak-illegal-fishing-di-indonesia.html.
- Petrig, Anna and Marta Bo. *The International Tribunal for the Law of the Sea and Human Rights. Legitimacy of Unseen Actors in International Adjudication*, Cambridge University Press, 2019. <https://doi.org/10.1017/9781108641685.003>.
- Rahmi, Amelia, and Melda Kamil Ariadno. "Sinking of Vessel as the Country's Efforts in Keeping the Utilisation of Sustainable Fish Resources." *E3S Web of Conferences* 74, (January 2018). <https://doi.org/10.1051/e3sconf/20187412002>.

- Rothwell, Donald., et al. *The Oxford Handbook of the Law of the Sea*. Oxford: Oxford University Press, 2015.
- Salim, Fatiah Falhum. "The Monte Corfu Case : Judgment of International Tribunal for the Law of the Sea." *Indonesian Journal of International Law* 2, no. 3 (2005): 617-619.
- Santosa, Mas Ahmad. *Alampun Butuh Hukum dan Keadilan*. Jakarta: Prima Pusaka, 2016.
- Schatz, Valentin J. "Combating Illegal Fishing in the Exclusive Economic Zone – Flag State Obligations in the Context of the Primary Responsibility of the Coastal State." *Goettingen Journal of International Law* 7, no. 2 (2016): 383-414.
- Shafira, Maya. et al. "Optimisation of Promptly Released As Primum Remedium in Committing Illegal Fishing Against Foreign Fishers." *International Journal of Business, Economics and Law* 24, no. 5 (2021): 22-27.
- Sodik, Dikdik Mohammad. *Hukum Laut Internasional dan Pengaturannya di Indonesia*. Bandung: Refika Aditama, 2014.
- Soekanto, Soerjono and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Rajagrafindo Persada, 2007.
- Trevisanut, Seline. "Twenty Years of Prompt Release of Vessels: Admissibility, Jurisdiction, and Recent Trends." *Ocean Development and International Law* 48, no. 3–4 (June 2017): 30-312.
- Uya, Fika Nurul and Yoga Sukmana. "6 Wilayah RI paling Rawan Illegal Fishing Natuna yang Pertama." *Kompas*, 12 June 2020. Accessed on 15 August 2022. <https://money.kompas.com/read/2020/06/12/203300726/6-wilayah-ri-paling-rawan-illegal-fishing-natuna-yang-pertama?page=all>.
- "Declaration of Judge Ndiaye, Case No.6 International Tribunal for the Law of the Sea." Accessed 12 August 2022. <https://www.itlos.org/en/cases/list-of-cases/case-no-6/>.
- "Prompt Release of Vessels and Crew." ITLOS. Accessed 12 August 2022. <https://www.itlos.org/en/main/jurisdiction/contentious-cases/prompt-release-of-vessels-and-crews/#:~:text=An%20application%20for%20the%20release,vessel%20or%20on%20its%20behalf>.

“Recapitulation of data on fishery crimes (Rekapitulasi Data Tindak pidana perikanan).” KKP. Accessed 12 August 2022. <https://kkp.go.id/an-component/media/upload-gambar-pendukung/Ditjen%20PSDKP/Humas%20PSDKP/Data%20TPKP%2031%20Desember%202021.pdf>.

“The Volga Case.” *Jusmundi*. Accessed on 15 August 2022. <https://jusmundi.com/en/document/decision/en-the-volga-case-russian-federation-v-australia-judgment-monday-23rd-december-2002>.

Regulations

Indonesia. “Indonesian Criminal Code.”

Indonesia. “Law Number 45 of 2009 on the Amendment of Law Number 31 of 2004 on Fisheries.” 29 October 2009. <https://peraturan.bpk.go.id/Details/38790/uu-no-45-tahun-2009>.

ITLOS. “International Plan of Action to Prevent, Deter and Eliminate IUU Fishing.” 2001. https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/2001_ipoa_iuu.pdf.

ITLOS. “Rules of The Tribunal.” 17 March 2009. https://www.itlos.org/fileadmin/itlos/documents/basic_texts/Itlos_8_E_17_03_09.pdf.

Mahkamah Agung. “Circular of Supreme Court (SEMA) Number 4 of 2015.” 29 December 2015. https://kepaniteraan.mahkamahagung.go.id/images/peraturan/sema/SEMA_3_TAHUN%202015.pdf

UN General Assembly. “Convention on the Law of the Sea.” 10 December 1982. <https://www.refworld.org/docid/3dd8fd1b4.html>.