

# Maritime Studies

May/June 2007

154

ISSN 0726 6472



## Table of Contents

Dirhamsyah	<b>Analysis of Institutional Arrangements Relevant to Coral Reef Management in Indonesia</b>	<b>1</b>
Tim Lynch	<b>Illegal, Unreported, Unregulated Fishing, and The Universal Fisherman</b>	<b>20</b>
Llew Russell	<b>Australia looks at the possibility of an alternative cargo reporting regime</b>	<b>24</b>
	<b>In Brief</b>	<b>28</b>
	<b>Conferences &amp; Seminars</b>	<b>35</b>
	<b>AAMA</b>	<b>36</b>

---

# Illegal, Unreported, Unregulated Fishing, and The Universal Fisherman

Tim Lynch\*

---

At a conference on Maritime Security organised by Canadian Maritime Forces Pacific in Victoria in September 2006, it became apparent that the challenges of illegal, unreported and unregulated (IUU) fishing are increasingly being confronted by the world's leading maritime countries as part of a much larger rubric. In his key note speech Rear-Admiral Roger Girouard, Commander Maritime Forces Pacific, stated 'the Indo-Pacific region is fraught with problems: piracy, maritime terrorism, trans-national maritime crime, illegal fishing, natural disasters, the potential for and reality of conflict at sea, and offshore disputes. These problems, set within a context of rising nationalism, have made the Indo-Pacific maritime environment increasingly brittle.' The 'brittle' nature of security in the region became apparent during workshop discussions around the offshore threats to Canadian values and property.<sup>1</sup>

In a workshop on IUU fishing, representatives of Canada, Chile and Australia presented a frame of reference for discussion. Wendell Sanford, Deputy Director, Oceans Law Section, Foreign Affairs Canada, provided a legal frame of reference for the session. He outlined how fishing within 200 nautical miles is managed by the coastal state and beyond 200 nm managed by flag states who are encouraged to form regional fisheries management organisations (RFMOs) and cooperate. He noted that vessels without a flag are subject to control of any government vessel that challenges them. The surveillance and 'policing' of most of today's high seas fisheries are overseen by such RFMOs as Northwest Atlantic Fisheries Organization (NAFO), Inter-American Tropical Tuna Commission (IATTC) and Western and

Central Pacific Fisheries Commission (WCPFC). The North Pacific Anadromous Fish Commission (NPAFC) coordinates scientific research on salmon and other anadromous fish stocks in the North Pacific Ocean. As a signatory of the *UN Convention on the Law of the Sea*, Canada has taken a leading role in addressing concerns about IUU fishing. In March 2005 Canada introduced its 'National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated' Fishing, (NPOA-IUU). NPOA highlights actions and initiatives taken within domestic waters or in international waters close to Canada's 200-nautical-mile limit to deter and eliminate IUU fishing.

Jessica Fuentes Olmos of the Chilean Fisheries Secretariat gave a presentation of strategies adopted by her country to combat illegal fishing, listing detailed regulations as a flag State; a coastal State; and as a port State. She noted that Chile has adopted the measures with relation to the origin certification requirements in respect of ocean resources intended for trade by such international and regional fisheries management organisations as: The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), *Convention on International Trade in Endangered Species* (CITES) and the International Commission for the Conservation of Atlantic Tunas (ICCAT). Chile submits its fisheries statistics on landings, production and aquaculture to the UN's Food and Agriculture Organization (FAO) on a yearly basis and provides a list of fishing vessels removed from the records of the competent Authority or in respect of which fishing authorisations have expired. Chile has an active participation in forums with other nations to

---

\* Tim Lynch is a public policy analyst living in Steveston, British Columbia (BC). Email address: [tim@infolyнк.ca](mailto:tim@infolyнк.ca). For past articles on BC fish policy go to <http://www.infolyнк.ca/bcfishpolicy.html>

establish enforcement rules and procedures to discourage re-flagging of fishing vessels. An example of such involvement is the establishment of the International Monitoring, Control and Surveillance Network for Fisheries Activities.

Illustrating how the world is changing in this post 9/11 era, Rear Admiral James Goldrick, Commander Border Protection Command, Australian Navy said that 'From the Defence perspective, whether it is the whole-of-government response to terrorism, weapons of mass destruction (WMD), fisheries and resource protection, or in meeting the needs of neighbouring states, the contribution of Defence is expected to go far beyond war fighting.' Goldrick described how his command for offshore protection has direct communication with all the responsible Government agencies in executing its mission to: Safeguard Australia's interests through the conduct of surveillance and coordination of maritime response in the Australian Exclusive Economic Zone (EEZ) and adjacent areas, and prepare, support and command directed offshore maritime, joint and specified operations.

After providing an overview of Australia's strategic maritime environment and landscape, Goldrick described Australia's Maritime Domain Awareness (MDA) as the effective understanding of any activity associated with the maritime environment that could impact on the security, safety, economy or environment of a coastal country. He stressed that a large part of MDA is tracking vessels, their location, identity, intentions, etc. This tracking supports MDA by: gathering information on vessel activities, making this information usable (validation, correlation etc), getting the information to the right people so that the MDA process supports all maritime missions engaged in security, safety and marine environmental protection. Goldrick described the threat as being 'multi-dimensional' listing illegal fishing, illegal immigration/people smuggling, quarantine risks, smuggling (drugs, etc), environmental damage and terrorism as specific areas of concern.

### **IUU, It's not about fish, it's about money**

The formal part of the presentations was followed by a free flowing discussion among participants and presenters where concerns were raised and doubts discussed. It seemed that the elephant in the room that everyone was reluctant to talk about was 'organised crime' and the possible collaboration of nation states in such activities. The comment was made 'IUU is not about fish, it's about money.' Unreported and unregulated fishing is not illegal to a lawyer. Unless there is agreement to international conventions among nations such practices are difficult to adjudicate when they occur on the high sea. Spain, Portugal and Russia were identified as rogue states with respect to supporting conventions that serve to reduce IUU practices. China was described as an anomaly given its apparent lack of control over private fishing companies that function in a ruthless capitalistic manner.

It was stressed that IUU fishing can be very profitable. An impoverished independent fisherman can benefit from an illegal catch but not as much as the person he sold to, and it goes up the chain from there each level taking usually a larger cut. An arrangement between dubious organisations and jurisdictions that are prepared to look the other way can accumulate considerable wealth, particularly for selected fish stock. The ultimate answer to this dilemma was identified as controlling market access. With increasing involvement among nation states in RFMOs there is some encouragement that change will occur, albeit slowly. The Europeans, Japanese, and North and South American jurisdictions are increasingly agreeing to collaborate in better controlling market access. There was recognition that national intelligence organisations, which are becoming increasingly sophisticated in this post 9/11 era, could be used to assist in identifying all parties involved in such criminal activities.

### **The Canadian IUU Management in Domestic Waters**

Describing how Canada contributes towards the management of IUU practices within its domestic waters Sanford said,

You are not allowed to tranship in Canadian waters or NAFO Regulatory Area but that is what the 'O' boats do.<sup>2</sup> This year we began to track their supply ships, which are going to the Far East to dispose of their cargo. We shall proceed to contact the destination countries to see if we can get a ban on that vessel being received. With respect to special courts any vessels coming into Canada's EEZ are subject to our criminal code, so the good news from a lawyer's perspective is that all rights are guaranteed to the accused party. As with most jurisdictional procedures this is a very slow process. We have a couple of cases in play at the moment proceeding before the courts like other alleged violators of Canadian law. It can take up to two to three years to resolve each individual case. We are looking at an administrative procedure, which is more common in other places around the world. We have a very high level of collaboration among all agencies in Canada. Our enforcement is always done by our Fisheries Protection Officers from DFO, although a number of officers on our naval frigates are designated Fisheries Officers as required. I notice that nine of the thirteen parties to NAFO are members of NATO; since we are all in a military naval alliance together we would be prepared to use them as platforms. DFO has a budget to retain frigate and aircraft from our Department of National Defence. For routine boarding we may use the navy but if we suspected a more serious problem we would use our Coast Guard. We prefer a red and white Canadian Coast Guard hull coming along side rather than one of our grey hull navy ships in approaching a suspect ship.

Giving the Canadian experience of IUU fishing on the open sea, Sandford said,

There are European states that go from one region to another because they have fished out that region. The classic case is Spain and Portugal who joined the EU in 1986 and they were not allowed to fish in European waters until 1996. In consequence they appeared along the North West Atlantic in large numbers. When Canada arrested the Spanish ship *Estai* in March 1995 as an extension of international law the reaction in the UK and Ireland was very positive because we had pushed back against the Spanish just nine months when they were going to be allowed to fish in EU waters. We finalized the UN

Fish Stocks Agreement in August 1995 in large measure as a result of that action.

### **Marine Security Operation Centres (MSOCs)**

As reported in the January 2007 edition of *Mariner Life*, Canada is in the process of forming a new maritime security structure. Maritime Security Operations Centres (MSOCs) were established in the Atlantic, Great Lakes and Pacific regions in March 2005. The Pacific MSOC is located at CFB Esquimalt. Personnel from Maritime Command, RCMP, Canadian Coast Guard, Canadian Border Services Agency (CBSA) and Transport Canada staff the MSOC. The mission of an MSOC is to provide an intelligence function in maritime security by generating one unified and comprehensive recognised maritime picture. MSOCs work on terrorism and law enforcement scenarios in close liaison with the US Coast Guard.

### **The Universal Fisherman**

In a discussion on ownership of the IUU fishing problem, Goldrick said,

My worldwide experience is that we have a fundamental problem with fishermen. They have very little sense of history; they deny vehemently that the problem belongs to them. They change their techniques but don't realise that in so doing they have changed the rules of the game. If I go back twenty years in our sightings, there are now fishermen in places where they have never been but they still maintain that they are in traditional fishing areas. There is no evidence that they, their father or their grandfather went to that area. The difficulty is, and this is a worldwide problem, convincing fishermen of the reality of what they are doing and what impact they are having on the environment. Of course, the less educated the fishermen are the more difficulty it is to convince them. As they have fished out closer to home they have had to move further and further out. With new technologies their methods of operations are completely different from their fathers and grandfathers. To actually persuade fishermen that they are a large part of the problem is very difficult to do and this is a worldwide problem. They don't want to accept that having a boat that can do sixteen times what a previous boat could do is going to have an effect. The only solution I see is education

and providing a means for them to have some alternative kind of livelihood.

Developing policies that serve to protect fish stocks for future generations to harvest is one of the major challenges facing the international maritime community of nations. The exponential growth in demand for quality marine product creates a market climate that encourages exploitation beyond the degree to which nature is able to replenish species. In the absence of universally enforceable rules and regulations subversive elements take more live-stock from the sea than it can replace. Multi-national enforcement procedures need to be in place that will deter and hopefully eliminate

IUU fishing in both domestic and international waters.

A web search of the RFMO acronyms will lead to further information about illegal fishing. The full text of the NPOA-IUU, can be found at [www.overfishing.gc.ca](http://www.overfishing.gc.ca).

#### ENDNOTES

- <sup>1</sup> Tim Lynch, 'Canadian Maritime Security: From the Navy on Patrol: to the Police on the Beat', *Maritime Studies* 152, January-February 2007, pp. 22- 26.
- <sup>2</sup> The 'O' boats are a group of up to 8 vessels which are thought to be owned in Russia and which illegally fish for redfish in the northern NAFO area (near Greenland) each summer. They have been labelled 'O' boats because their names (all Russian in character) all begin with O.