

# Illegal, Unreported, Unregulated fishing and the Universal fisherman

*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.*

By Tim Lynch

At a conference on Maritime Security organized by Canadian Maritime Forces Pacific in Victoria last September, it became apparent that the world's leading maritime countries are increasingly confronting the challenges of illegal, unreported and unregulated (IUU) fishing. In his keynote 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. (For

more on this subject, read the article published in the January 2007 issue of *Mariner Life* magazine.)

In a workshop on IUU, fishing representatives from Canada, Chile and Australia presented a frame of reference for discussion. Wendell Sanford, Deputy Director of Foreign Affairs Canada's Oceans Law Section, outlined how the coastal states manage fishing within 200 nautical miles and flag states, which are encouraged to cooperate and form regional fisheries management organizations (RFMOs), manage beyond 200 NM. He noted that vessels without a flag are subject to the control of any government vessel that challenges them.

RFMOs such as Northwest Atlantic Fisheries Organization (NAFO), Inter-American Tropical Tuna Commission (IATTC) and Western and Central Pacific Fisheries Commission (WCPFC) oversee surveillance and policing of

most of today's high-seas fisheries. 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 organizations as the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the 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 Agricultural 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 authorizations have expired. Chile actively participates in forums with other nations to 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 of the Australian Navy's Border Protection Command, said, "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 surveillance and coordination of maritime response in the Australian

wcb

volvo

Exclusive Economic Zone (EEZ) and adjacent areas, and to prepare, support and command directed offshore maritime, joint and specified operations.

Goldrick described Australia's Maritime Domain Awareness (MDA) as the effective understanding of any activity associated with the maritime environment that could impact 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. Goldrick described the IUU threat as being "multi-dimensional" and he listed illegal fishing, illegal immigration/smuggling, quarantine risks, environmental damage and terrorism as specific areas of concern.

### IUU Fishing a Financial Issue

During the discussions that followed the formal presentations, participants skirted around the subject of organized crime and the possible collaboration of nation states in such activities. Someone even commented that "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 uncommitted to reducing 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 also stressed that IUU can be very profitable. An impoverished independent fisherman can benefit from an illegal catch but not as much as the person he sold to. The benefit travels up the chain, with each level typically taking a larger cut. Arrangements between dubious organizations and jurisdictions 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 along with North and South American jurisdictions are increasingly agreeing to collaborate in better controlling market access. It was also widely recognized that national intelligence organizations could be used to assist in identifying all parties involved in criminal activities such as illegal fishing.

### The Canadian IUU Management in Domestic Waters

Describing how Canada contributes towards the management of IUU practices within its domestic waters, Sanford explained, "You are not allowed to tranship in Canadian waters or NAFO Regulatory Area, but that is what the "O" boats do. 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 vessel coming into Canada EEZ is 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," continued Sanford. "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 alongside rather than one of our grey hull navy ships in approaching a suspect ship."

Giving the Canadian experience of IUU 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 northwest 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 before 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 *Fisherman Life's* sister magazine, *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. MSOC personnel hail from Maritime Command, RCMP, Canadian Coast Guard, Canadian Border Services Agency

d/lend

sm products


## unregulated fishing

(CBSA) and Transport Canada. The mission is to provide an intelligence function in maritime security by generating one unified and comprehensive recognized 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 UII 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 realize that in so doing they have changed the rules of the game. If I go back 20 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 fished in that area. The difficulty, and this is a worldwide problem, is 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 difficult 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. They don’t want to hear or 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 livestock 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). 

**Tim Lynch** is a public policy analyst living in Steveston.  
For past articles on BC fish policy go to  
<http://www.infolyнк.ca/bcfishpolicy.html>  
Please send comments on this article to [tim@infolyнк.ca](mailto:tim@infolyнк.ca).