

Tinjauan tindakan penenggelaman kapal terhadap kapal pelaku illegal, unreported and unregulated fishing (IUUF) = Review of the sinking of fishing vessels who commit illegal unreported and unregulated fishing (IUU fishing)

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Abstrak

Menanggapi masalah Illegal, Unreported and Unregulated Fishing IUU Fishing yang tengah dihadapi Indonesia, Pemerintah Indonesia mengeluarkan beberapakebijakan yang dapat menurunkan jumlah aktivitas IUU Fishing, yang salah satunya adalah tindakan penenggelaman kapal bagi kapal pelaku IUU Fishing. Penelitian ini bermaksud untuk mengetahui apakah tindakan penenggelaman kapal yang dilakukan sudah sesuai dengan hukum nasional dan internasional, serta memenuhi kriteria penegakan hukum. Metode pengumpulan data dilakukan dengan studi kepustakaan dan wawancara dengan narasumber yaitu Kementerian Kelautan dan Perikanan Republik Indonesia dan Satuan Tugas Pemberantas Illegal Fishing. Hasil penelitian menunjukkan bahwa tindakan penenggelaman kapal sudah sesuai berdasarkan hukum nasional dan internasional yaitu berdasarkan Pasal 25, 27 dan 73 UNCLOS serta Pasal 69 ayat 4 dan 76A UU No. 45 Tahun 2009 tentang Perikanan. Namun dalam pandangan sebagai upaya penegakan hukum, masih terdapat ketidakpastian hukum khususnya jika didasarkan Pasal 69 ayat 4 UU No. 45 Tahun 2009 karena barang bukti kapal tidak memenuhi prosedur sebagaimana terdapat pada Kitab Hukum Acara Pidana. Sehingga masih diperlukan adanya perbaikan terhadap peraturan untuk melakukan penenggelaman kapal khususnya yang didasarkan Pasal 69 ayat 4 UU No. 45 Tahun 2009.

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In response to the Illegal, Unreported and Unregulated Fishing IUU Fishing problems that Indonesia is currently facing, the Government issued several policies that could reduce the number of IUU Fishing activities, one of which is the act of sinking ship for those who committed IUU Fishing activity. This research intends to know whether the act of sinking the ship is aligning with national and international law as well as fulfill the criteria of law enforcement. Data collection method of this research was done by literature study and interview with Ministry of Marine Affairs and Fisheries and Illegal Fishing Task Force. The results of the research indicate that the act of sinking the vessel is appropriate according to national and international law, namely Article 25, 27 and 73 UNCLOS and Article 69 paragraph 4 and Article 76A Law no. 45 Year 2009 on Fisheries. However, in view of law enforcement efforts, there are still legal uncertainties, especially if based on Article 69 paragraph 4 of Law no. 45 Year 2009 because there is no procedure as of how to transfer the vessels into the legitimate evidence as stated in Book of the Criminal Procedure Code. Therefore it is still necessary to improve the regulation regarding the act of sinking ship especially based on Article 69 paragraph 4 of Law no. 45 Year 2009.