

## ***A Code of Conduct Perspective on Indonesia's Legal Readiness for Sustainable Fisheries Trade under the WTO Regime***

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### **Abstract**

This paper examines the extent to which Indonesia's fisheries trade regulatory regime reflects international sustainability standards, particularly those embedded in the WTO Agreement on Fisheries Subsidies. Using a juridical normative approach complemented by comparative legal analysis, this study explores the weaknesses in Indonesia's fragmented legal instruments governing fisheries, trade, and environmental sustainability. Although terms such as "*sustainability*" and "*ecosystem based management*" appear in legislation, they lack operational definitions, binding obligations, and institutional harmonization. The absence of statutory coordination across ministries, particularly between the Ministry of Marine Affairs and Fisheries, the Ministry of Trade, and the Ministry of Environment and Forestry, hampers Indonesia's ability to comply with sustainability linked trade obligations. This paper also evaluates the potential of soft law instruments such as the FAO Code of Conduct for Responsible Fisheries and the Ecosystem Approach to Fisheries Management as normative frameworks for legal reform. While some elements of the Code and the ecosystem approach have been adopted through bilateral cooperation and sectoral programs, they have not yet been embedded into Indonesia's statutory framework. This paper employed the normative-judicial method, utilizing the statute approach, conceptual approach, and comparative approach. This paper contributes to the legal discourse by advocating for the harmonization of international sustainability norms into binding national law, emphasizing the importance of legal pluralism and institutional coherence in advancing environmentally responsible fisheries trade.

**Keywords:** Fisheries Law; Sustainability; WTO; CCRF; EAFM.

### **Introduction**

Indonesia has a lot of marine potential. Based on data released by the World Resources Institute Indonesia, Indonesia's sea area reaches 8.3 million

square kilometers km<sup>2</sup>, more than 18,000 islands, and 108,000 km of coastline.<sup>1</sup> Indonesia is blessed with abundant marine wealth. The sea provides hundreds of millions of Indonesians with a source of livelihood, food, and economic growth. Apart from that, from a geographical perspective, Indonesia is located between the continents of Asia and Oceania, thus providing strategic benefits for trade and communication routes that cross this country.<sup>2</sup> However, this golden potential is often overlooked, as its implementation usually involves excessive fishing, including illegal, unregulated, and unreported IUU Fishing practices, within the Fisheries Management Area of the Republic of Indonesia.<sup>3</sup> In line with Indonesia's commitment, which has been ratified through the Paris Agreement and outlined in the Nationally Determined Contribution (NDC) document, Indonesia has a moral and legal responsibility to encourage sustainable development, particularly in the marine and fisheries sectors.

However, current national regulations including Law No. 31 of 2004 as amended by Law No. 45 of 2009 on Fisheries remain insufficient in integrating sustainability principles that are consistent with contemporary international standards. While Law No. 7 of 2014 on Trade and Law No. 32 of 2009 on Environmental Protection and Management contain relevant provisions, they function in isolation and lack coherence with fisheries governance. This regulatory disconnect creates a significant gap in ensuring that Indonesia's fisheries trade complies with evolving global norms, especially those under the WTO regime. The WTO Agreement on Fisheries Subsidies adopted in 2022 reflects growing international consensus on the need to eliminate harmful subsidies contributing to IUU fishing and overcapacity. Thus, domestic legal reform is essential not only to meet global obligations but also to secure the future of Indonesia's marine resources.<sup>4</sup>

<sup>1</sup> 'Laut' (World Resources Institute, 2025) <<https://wri-indonesia.org/id/ocean>> accessed 16 July 2025.

<sup>2</sup> Gia Nikawanti and Rukman Aca 'Ecoliteracy: Membangun Ketahanan Pangan Dari Kekayaan Maritim Indonesia' (2021) 2 Jurnal Kemaritiman: Indonesian Journal of Maritime.[114-115].

<sup>3</sup> Achmad Sani Alhusain, *Kebijakan Pembangunan Ekonomi Kelautan Indonesia: Quo Vadis?* (Buku Obor 2019).[36].

<sup>4</sup> Yusuf, A., Ariadno, M.K., & Afriansyah, A.'Legal Framework and Mechanism of Marine Fisheries Subsidies in the Aspects of International Trade and Sustainable Development'(2015) Indonesia Law Review 5. [291-304].

To bridge this gap, international soft law instruments such as the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) offer crucial guidance. The CCRF promotes key principles including; the precautionary approach; ecosystem-based management; scientific accountability; biodiversity protection; and equitable participation, particularly by small-scale fishers. Meanwhile, EAFM provides a practical framework to manage fisheries by balancing ecological, social, and economic aspects. Although Indonesia has expressed alignment with these instruments in policy discourse, their normative standards have yet to be embedded meaningfully into national legislation. As a result, the country risks falling short of its international trade and environmental commitments. Therefore, this paper critically examines Indonesia's legal shortcomings in ensuring sustainable fisheries trade, and proposes the integration of CCRF and EAFM principles into national law as both a legal and strategic imperative.

Based on the background presented, Indonesia is currently facing a complex legal landscape where sustainability obligations under international environmental and trade regimes have not been effectively incorporated into its national fisheries legislation. This regulatory gap not only undermines the goal of sustainable development but also exposes Indonesia to potential non-compliance within the WTO framework, particularly under the Agreement on Fisheries Subsidies. To address these challenges, this paper raises two main research questions: **First**, To what extent does Indonesia's fisheries trade legal framework reflect international sustainability standards, particularly under the WTO regime? **Second**, How can the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) serve as normative frameworks to strengthen Indonesia's legal commitments toward sustainable fisheries trade?

This paper employed the normative-judicial method, utilizing the statute approach, conceptual approach, and comparative approach. First, the statutory approach examines Indonesian legal instruments, primarily Law No. 31 of 2004 as amended by Law No. 45 of 2009 on Fisheries, Law No. 7 of 2014 on Trade, and Law No. 32 of 2009 on Environmental Protection alongside international

agreements such as the WTO Agreement on Fisheries Subsidies and the Paris Agreement. This approach assesses how well domestic regulations align with Indonesia's global commitments. Second, the conceptual approach explores doctrinal perspectives on sustainable development and environmental governance, with emphasis on the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM). These instruments are considered not only as policy references but also as normative frameworks for legal reform. Third, the comparative approach reviews best practices from other jurisdictions, particularly coastal and archipelagic states such as the Philippines and Norway, that have integrated CCRF and EAFM principles into binding national law.

**To what extent does Indonesia's fisheries trade legal framework reflect international sustainability standards, particularly under the WTO regime**

### **1.1 Current Status Quo and Institutional Fragmentation**

Indonesia's legislative framework on fisheries trade is governed principally by Law No. 31 of 2004 as amended by Law No. 45 of 2009. This regime remains largely focused on production oriented priorities and fails to operationalize sustainability principles in a systematic and legally binding manner.<sup>5</sup> Although some legal texts refer to the concept of sustainability, the absence of operational definitions, measurable indicators, and mandated scientific assessments undermines their normative utility. The law does not establish enforceable requirements for ecosystem based fisheries management, precautionary approaches, or sustainability linked licensing.

Moreover, the sectoral separation between fisheries, trade, and environmental governance exacerbates regulatory incoherence. Law No. 7 of 2014 on Trade and Law No. 32 of 2009 on Environmental Protection each contain standalone sustainability provisions but lack mechanisms to harmonize objectives across sectors. For example, the trade law does not impose sustainability documentation for fishery exports, while the environmental law does not integrate fisheries data or policy in the

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<sup>5</sup> Law No. 45 of 2009 on Amendment to Law No. 31 of 2004 on Fisheries (Indonesia) of 2009.

formulation of marine protection strategies. This siloed governance weakens Indonesia's institutional ability to meet international sustainability obligations such as those envisioned under the WTO framework.

The issue is further compounded by insufficient coordination among government institutions. The Ministry of Marine Affairs and Fisheries, the Ministry of Trade, and the Ministry of Environment and Forestry often implement policies in isolation due to the absence of binding interministerial coordination frameworks. As a result, fisheries trade governance suffers from overlapping jurisdictions, regulatory inconsistencies, and diminished enforcement capacity.<sup>6</sup>

From a legal theory perspective, this reflects not a vacuum of regulation but a normative ambiguity and systemic fragmentation. Sustainability is referenced without operational content, and intersectoral synergies are structurally impeded. Furthermore, there is no legal requirement to conduct regular environmental assessments or integrate scientific data into fisheries quota setting and subsidy allocation. This contrasts with best practices in sustainability governance, where data transparency, science based thresholds, and judicial review are cornerstones of effective legal systems.<sup>7</sup>

A critical yet often overlooked issue is the exclusion of small scale fisheries communities, indigenous legal systems, and local ecological knowledge from the formal lawmaking process. Applying the lens of Environmental Legal Pluralism, which emphasizes the coexistence of formal and informal regulatory systems, this omission undermines both legitimacy and effectiveness. By failing to provide formal legal standing or participatory mechanisms, Indonesian fisheries law excludes actors who are often closest to marine resource dynamics.<sup>8</sup>

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<sup>6</sup> Abdul Kamil Razak, Hartiwiningsih and Pujiyono, 'Implementation and Elimination of Actions Criminal Illegal Fishing Towards the Development of Sustainable Fisheries', International Journal of Religion (2024): 25.

<sup>7</sup> Parsaulian, Baginda, Agus Irianto and Hasdi Aimon, 'Re-Thinking Indonesian Fisheries Policy: Empowerment of a Hidden Asset for Sustainable Fisheries in West Pasaman District, West Sumatra, Indonesia', International Journal of Environmental Impacts (2024): 17.

<sup>8</sup> Sulaiman, Farida Patittingi, Abrar Saleng and Kahar Lahe, 'Legal protection of marine resources and fishery in the border area,' (2021) IOP Conference Series: Earth and Environmental Science 860.[23].

Although Indonesia has demonstrated partial implementation of CCRF principles, particularly through bilateral cooperation with Australia targeting IUU fishing in the Arafura and Timor Seas, these practices are limited in scope and temporality. As Salfauz (2015) notes, operational successes in joint patrols and documentation have not translated into institutionalized national standards. The CCRF remains a soft law reference rather than a codified legal obligation.

The deficiencies of Indonesia's legal framework are not merely theoretical but are reflected in real-world instances of environmental degradation. The lack of binding legal norms, weak inter-ministerial coordination, and fragmented regulatory mandates have allowed unsustainable fisheries practices and related environmental harms to persist. The following case studies illustrate how these systemic legal weaknesses manifest in specific geographic and ecological contexts, demonstrating the urgent need for integrated legal reform.

Table 1. Case Studies of Environmental Degradation from Unsustainable Fisheries Practices in Indonesia

Case	Environmental and Legal Implications
Minahasa, North Sulawesi – Marine Sand Mining	The unregulated dredging has caused massive seabed disruption, erosion of coastal areas, and destruction of coral reef ecosystems crucial for fish spawning. As a result, artisanal fishers report dwindling catches and loss of livelihoods. Legally, this reflects serious governance gaps in harmonizing coastal spatial planning with fisheries protection and EIA enforcement. Marine sand mining has intensified in Minahasa to support rapid coastal infrastructure and real estate development. Despite community opposition, permits were granted without comprehensive environmental impact assessments or participatory consultation. <sup>9</sup>
Natuna Waters – IUU Fishing	This region has become a frequent target for

<sup>9</sup> Mongabay Indonesia, 'Tambang pasir laut di Sulawesi Utara rusak ekosistem pesisir' (Mongabay Indonesia, 2022) <<https://www.mongabay.co.id>> accessed 17 July 2025.

by Foreign Vessels	<p>illegal fishing by foreign fleets, particularly from Vietnam and China. Although Indonesia has intensified patrols, enforcement remains inconsistent. The ecological cost includes depletion of demersal fish stocks, trawl damage to benthic habitats, and undermining of marine sovereignty.<sup>10</sup></p> <p>Legally, this shows weak deterrence due to low prosecution rates and ineffective coordination between maritime security and fisheries law enforcement. The case also reveals deficiencies in vessel monitoring and catch documentation systems<sup>11</sup>.</p>
Jakarta Bay – Marine Pollution from Industry	<p>The contamination has caused fish kills, biodiversity loss, and bioaccumulation of toxins in edible fish species, endangering public health. Fragmented legal mandates between environmental agencies and fisheries authorities have delayed mitigation. The case underscores the urgent need for integrated marine pollution regulation linked to fisheries health and traceability.<sup>12</sup> Decades of industrial discharge and urban waste have turned the bay into a heavily polluted area. The fisheries sector operates amidst chemical effluents and heavy metal contamination.</p>
Arafura Sea – Recurring IUU Fishing and Weak Oversight	<p>Overfishing has reduced stocks of economically vital species like snapper and grouper. While Indonesia has participated in joint patrols with Australia, these efforts lack continuity and institutional embedment. This case illustrates the failure to incorporate EAFM principles into binding fisheries licensing frameworks, and the weak transformation of CCRF principles into law. Large-scale reclamation projects to support tourism have encroached on traditional fishing</p>

<sup>10</sup> Roy Mardianto, 'Government's Concrete Action to Protect Natuna Waters from Foreign Vessels' (Cidiss, 2025)

<<https://cidiss.co/uncategorized-2/governments-concrete-action-to-protect-natuna-waters-from-foreign-vessels/>> accessed 17 July 2025.

<sup>11</sup> Kementerian Kelautan dan Perikanan (KKP) & WWF Indonesia, *Laporan Pemantauan IUU Fishing di Perairan Natuna* (2020).

<sup>12</sup> Achmad Riyadi and T Suryono, 'Pollution of Coastal Areas of Jakarta Bay: Water Quality and Biological Responses' (2018) <[https://www.researchgate.net/publication/328254477\\_POLLUTION\\_OF\\_COASTAL AREAS\\_OF\\_JAKARTA\\_BAY\\_WATER\\_QUALITY\\_AND\\_BIOLOGICAL\\_RESPONSES](https://www.researchgate.net/publication/328254477_POLLUTION_OF_COASTAL AREAS_OF_JAKARTA_BAY_WATER_QUALITY_AND_BIOLOGICAL_RESPONSES)> accessed 16 July 2025.

	grounds and fish nursery areas. Local fishing communities were excluded from permit consultations. <sup>13</sup>
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## **1.2 Risk of Non-Compliance and Loss of Export Market Access**

The disjointed configuration of Indonesia's fisheries-related regulations not only undermines domestic governance, but also threatens the country's position in global seafood markets. The rise of sustainability-driven trade regimes has significantly increased the compliance burden on exporting countries. Major importers such as the European Union and the United States have adopted due diligence regulations that condition market access on verifiable sustainability criteria. For example, the European Union's Illegal, Unreported and Unregulated Fishing Regulation requires comprehensive catch certification schemes, while the United States applies the Seafood Import Monitoring Program that mandates documentation of legal origin and supply chain traceability for high-risk species.<sup>14</sup>

In this context, the absence of a unified national legal framework in Indonesia capable of certifying sustainability and verifying legality through a robust traceability system has far-reaching consequences. Exporters may face not only reputational damage and increased transaction costs, but also risk losing preferential trade access. Reports by the International Trade Centre and the Food and Agriculture Organization demonstrate that more than seventy percent of fishery exports from developing countries are directed to markets that either mandate or incentivize sustainable sourcing.<sup>15</sup> These trends

<sup>13</sup> At-Sea Project, 'A Study of Illegal, Unreported and Unregulated (IUU) Fishing in the Arafura Sea, Indonesia' (2021) <<https://atsea-program.com/publication/a-study-of-illegal-unreported-and-unregulated-iuu-fishing-in-the-arafura-sea-indonesia/>> accessed 16 July 2025.

<sup>14</sup> European Commission, 'Due Diligence Explained' (European Commission, 2022) [https://single-market-economy.ec.europa.eu/sectors/raw-materials/due-diligence-ready/due-diligence-explained\\_en](https://single-market-economy.ec.europa.eu/sectors/raw-materials/due-diligence-ready/due-diligence-explained_en) accessed 16 July 2025.

<sup>15</sup> Food and Agriculture Organization, 'The State of World Fisheries and Aquaculture 2022: Towards Blue Transformation' (FAO, 2022) <<https://openknowledge.fao.org/server/api/core/bitstreams/a2090042-8cda-4f35-9881-16f6302ce757/content>> accessed 16 July 2025.

indicate that environmental compliance is no longer a voluntary aspiration, but a structural necessity for maintaining global competitiveness.

Due diligence, as interpreted in international trade law and private certification regimes, entails a proactive obligation by exporting states and firms to prevent unsustainable or illegal practices across the supply chain. This includes maintaining accurate and transparent data on harvesting, transshipment, processing, and export stages. In the absence of statutory obligations enforcing such transparency and verification, Indonesian seafood products risk being subjected to import restrictions, additional audits, or outright bans. This legal vulnerability is not merely hypothetical. In recent years, several Southeast Asian exporters have faced yellow cards or import suspensions from the European Union due to inadequate legal and institutional safeguards.

In the Indonesian context, the inability to meet international traceability and sustainability benchmarks is not rooted in a lack of political will, but rather in legal fragmentation and institutional inertia. Without embedding sustainability requirements into enforceable national legislation, including environmental safeguards tied to subsidies and trade licenses, Indonesia remains exposed to non-tariff barriers. For small-scale fishers and local exporters, this translates into real-world risks such as income volatility, increased compliance costs, and market exclusion. The current legal regime lacks not only enforceable criteria for sustainability, but also fails to establish a single authoritative body for verifying fisheries legality for export purposes.

In sum, legal uncertainty, inadequate institutional coordination, and the absence of binding sustainability verification mechanisms severely impair Indonesia's ability to benefit from emerging green trade frameworks. If not addressed through comprehensive legal reform, these weaknesses may compromise the livelihoods of millions and weaken the country's negotiating leverage in future multilateral trade and environmental agreements.

## **How can the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) serve as normative frameworks to strengthen Indonesia's legal commitments toward sustainable fisheries trade?**

### **2.1 The Role of CCRF and EAFM as Normative Legal Frameworks**

The FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) serve as globally recognized normative instruments that encapsulate contemporary international expectations for sustainable fisheries governance. Although categorized as soft law, these instruments have been widely referenced in binding multilateral commitments, national legal systems, and international adjudicatory reasoning.<sup>16</sup> They represent not only ethical commitments but also evolving customary standards that shape the legality of state behavior in the global fisheries trade regime.

The CCRF, adopted in 1995, outlines a comprehensive framework for responsible fisheries practices that address conservation, environmental protection, labor rights, and equitable stakeholder participation. It includes directives such as the precautionary principle, ecosystem-based management, and reliance on the best available scientific evidence. EAFM, which operationalizes these CCRF principles, adopts a systems-oriented perspective that balances ecological sustainability with socio-economic equity.<sup>17</sup> Together, these instruments represent a shift from narrow resource extraction paradigms to integrated, adaptive, and participatory governance models.

In Indonesia, however, the legal integration of CCRF and EAFM remains limited to discretionary policy instruments. Ministerial regulations such as the EAFM Implementation Guidelines issued by the Ministry of

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<sup>16</sup> David J Doulman, 'Code of Conduct for Responsible Fisheries: Development and Implementation Considerations' (FAO 2000)

<<http://www.fao.org/docrep/006/ad363e/ad363e00.htm>> accessed 16 July 2025.

<sup>17</sup> Jiayu Bai and Yuting Wu, 'How Can the Rule of Law under the WTO Framework Ensure Sustainable Fishery Governance through Fishery Subsidies? A Study from the Perspective of Special and Differential Treatment' (2023) Sciencedirect.[10].

Marine Affairs and Fisheries offer strategic guidance, but do not constitute enforceable legal mandates. As a result, EAFM practices are inconsistently implemented across fisheries management zones, often depending on donor-driven pilot projects or localized capacity. This regulatory ambiguity undermines both legal certainty and policy effectiveness.<sup>18</sup>

Embedding CCRF and EAFM into Indonesia's statutory framework would generate multiple institutional benefits. Legally codified principles create clear expectations for regulators, courts, and stakeholders, fostering predictability and transparency. In the context of international trade, such codification also enhances Indonesia's ability to justify its fisheries-related policies under multilateral trade disciplines. The World Trade Organization's Appellate Body decision in United States – Shrimp (Shrimp-Turtle Case) clarified that environmental measures affecting trade must be justified by transparent, non-discriminatory, and scientifically grounded legal instruments. Indonesia's current reliance on aspirational norms, without statutory anchoring, leaves its environmental justifications vulnerable in such settings.

Furthermore, a binding legal commitment to CCRF and EAFM principles would offer a framework for structuring fisheries subsidies in compliance with the WTO Agreement on Fisheries Subsidies (AFS). The AFS prohibits subsidies that contribute to illegal, unreported, and unregulated (IUU) fishing and requires member states to ensure that their subsidy regimes are environmentally sound. By contrast, Indonesia's current subsidy practices—such as diesel fuel subsidies and capacity-enhancement support—lack a legal requirement for sustainability conditionality.<sup>19</sup> This regulatory deficiency increases Indonesia's exposure to accusations of non-compliance under WTO disciplines and may invite scrutiny from trading partners with strong environmental standards.

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<sup>18</sup> Yulia A Hasan, 'Implementation of International Instruments in Indonesian Legislation in the Field of Conservation of Fish Resources' (2015) Journal of Humanity.[3].

<sup>19</sup> Zulbainarni, N et al, 'Does Indonesia's fisheries governance ready to achieve SDG's 14? The role of multi-stakeholder in fisheries policy'(2020) IOP Conference Series: Earth and Environmental Science 420.[32].

Importantly, incorporating CCRF and EAFM principles into statutory law would also reinforce Indonesia's obligations under various regional and bilateral environmental agreements. For example, within the Coral Triangle Initiative and ASEAN regional frameworks, Indonesia has committed to ecosystem-based management and sustainable coastal fisheries. However, the lack of national legislation that codifies these commitments diminishes Indonesia's capacity to implement, monitor, and report compliance effectively. Codification would not only improve horizontal integration across ministries, but also enable vertical coherence between central and local governments in managing marine and coastal resources.

From a governance perspective, integrating CCRF and EAFM into legislation would promote inclusive participation and environmental justice. Both instruments emphasize the role of small-scale fisheries, traditional knowledge systems, and community-based resource management. By granting legal recognition to these actors, Indonesia can move toward more pluralistic and context-sensitive governance frameworks. This approach aligns with emerging principles of environmental legal pluralism and sustainable development goals (SDGs), particularly Goal 14 on Life Below Water and Goal 16 on Inclusive Institutions.

Moreover, the CCRF and EAFM can serve as interpretive benchmarks for judicial review and regulatory evaluation. Courts and administrative bodies may rely on these instruments to fill legal gaps, assess the proportionality of government measures, or interpret ambiguous statutory terms. This practice is consistent with the use of international environmental soft law in domestic adjudication, especially in areas lacking detailed national regulation. For Indonesia, where judicial enforcement of environmental and fisheries law is often constrained by vague mandates and capacity issues, CCRF and EAFM could provide much-needed normative structure and coherence.

Aligning domestic law with CCRF and EAFM would position Indonesia as a regional leader in sustainable fisheries governance. By moving

beyond rhetorical commitments and embedding these standards into binding legal texts, Indonesia could demonstrate global leadership in harmonizing trade, environment, and development goals. Such a move would also strengthen the credibility of Indonesia's claims in international forums, including the WTO Committee on Trade and Environment and regional trade negotiations that incorporate sustainability chapters.

## **2.2      Urgency of Legislative Reform Post-WTO Agreement on Fisheries Subsidies**

The adoption of the WTO Agreement on Fisheries Subsidies in 2022 represents a watershed moment for international trade and sustainability. This agreement obligates member states to eliminate subsidies that support IUU fishing and to ensure that financial assistance does not undermine the sustainability of fish stocks. For Indonesia, this signals a legal and policy imperative to reform its national subsidy framework and fisheries governance in alignment with multilateral obligations. However, current Indonesian regulations do not mandate scientific assessments as a prerequisite for determining subsidy eligibility, nor do they condition public financial support on ecological performance metrics.<sup>20</sup> Moreover, existing legal instruments lack integration across the ministries responsible for fisheries, trade, finance, and the environment. This fragmentation makes it difficult to monitor subsidy flows, evaluate their environmental impact, or align them with international sustainability commitments.

Despite Indonesia's formal commitments under WTO and FAO-led instruments, legislative reform faces structural challenges, including bureaucratic inertia, sectoral lobbying, and limited public participation in marine policymaking. A roadmap for legal reform should include the amendment of the Fisheries Law to explicitly reference CCRF and EAFM, integration of sustainability metrics into licensing and subsidy schemes, and the establishment of an interministerial council with binding coordination powers.

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<sup>20</sup> Umi Muawanah and others, 'Review of National Laws and Regulation in Indonesia in Relation to an Ecosystem Approach to Fisheries Management' (2018) *Marine Policy* 91.[150–160].

The legislative process should begin with the development of a Green Paper to outline policy options and solicit multi-stakeholder input, followed by a White Paper setting forth a detailed legal framework. This process must be accompanied by meaningful public participation, including consultations with small-scale fishers, customary law communities, academic institutions, and civil society organizations.<sup>21</sup> Legal drafting should be coordinated across ministries with support from an independent advisory commission composed of interdisciplinary experts.

Parliamentary endorsement will be crucial to provide legitimacy and political support for these reforms. In this regard, harmonization with existing trade, marine, and environmental statutes must be carefully managed to avoid legal contradictions. Furthermore, transitional provisions should be established to phase in new sustainability requirements, allowing affected stakeholders to adapt without undue burden.

The ultimate goal of this legislative roadmap is to move beyond fragmented policy instruments toward a coherent legal regime that reflects Indonesia's international commitments while safeguarding ecological and socioeconomic resilience. By anchoring reforms in both international legal norms and national development priorities, Indonesia can pave the way for a more accountable, sustainable, and competitive fisheries sector.

## **2.3 Comparative Practice**

### **2.3.2 European Union**

The European Union (EU) provides a supranational model for embedding sustainability in both fisheries and trade regulation. The Common Fisheries Policy (CFP) legally mandates an ecosystem-based and precautionary approach to fisheries management, backed by scientific advice from the International Council for the Exploration of the Sea (ICES).<sup>22</sup> The CFP includes provisions such as the landing obligation,

<sup>21</sup>Annie Lalancette and Monica E Mulrennan, 'Competing Voices: Indigenous Rights in the Shadow of Conventional Fisheries Management in the Tropical Rock Lobster Fishery in Torres Strait, Australia' (2022) 21 *Maritime Studies* [255–277].

<sup>22</sup> Jill Wakefield, 'The Ecosystem Approach and the Common Fisheries Policy' in *The Ecosystem Approach in Ocean Planning and Governance* (Routledge 2018).

which prohibits discarding unwanted catches to ensure that all fish caught are accounted for and used sustainably.

Moreover, the EU's IUU Regulation No. 1005/2008 imposes rigorous traceability and legality requirements on all imported fish products. This regulation is enforced through a carding system yellow and red cards can be issued to third countries that fail to control IUU fishing effectively, potentially resulting in import bans. These legal frameworks ensure that sustainability is not only a domestic policy concern but also a trade criterion, shaping the behavior of external trading partners.<sup>23</sup>

By integrating these principles into enforceable legal instruments, the EU strengthens both ecological resilience and trade credibility. For Indonesia, the EU's legal and regulatory model offers a clear demonstration of how soft-law instruments like CCRF and EAFM can be transformed into binding standards that align with WTO sustainability obligations and market access requirements. that translating soft law principles into enforceable legal standards is both feasible and beneficial for long-term ecological and economic resilience. Indonesia can adapt elements from these frameworks to strengthen its own legal and institutional design. that translating soft law principles into enforceable legal standards is not only feasible but also beneficial for long-term ecological and economy.

### 2.3.1 Norway

Norway has institutionalized ecosystem-based fisheries management through a comprehensive legal framework, notably the Marine Resources Act. This law requires all harvesting of marine living resources to be ecologically sustainable, precautionary in nature, and based on the best available scientific knowledge. The implementation of these principles is overseen by the Directorate of Fisheries, which works in collaboration with the Institute of Marine Research to conduct annual

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<sup>23</sup> Christel Elvestad and Ingrid Kvalvik, 'Implementing the EU-IUU Regulation: Enhancing Flag State Performance Through Trade Measures' (2015) 46 Ocean Development & International La. [241–255].

stock assessments and recommend quotas.<sup>24</sup> These recommendations are binding and serve as the primary basis for setting catch limits and fishing effort.

Norway has institutionalized ecosystem-based fisheries management through legally mandated scientific stock assessments, transparent subsidy mechanisms, and stringent environmental standards. These measures are supported by strong inter-agency coordination involving the Ministry of Fisheries, independent research bodies, and stakeholder forums.<sup>25</sup> The legal framework ensures that quotas, subsidies, and management decisions are grounded in scientific data and ecological risk assessments.

### 2.3.2 Philippines

The Philippines, as a fellow archipelagic state, provides a valuable comparative model for Indonesia in translating EAFM into legal and institutional practice. Unlike Indonesia, the Philippines has embedded the principles of EAFM through national legislation such as the Fisheries Code of 1998 (Republic Act No. 8550), as amended by Republic Act No. 10654.<sup>26</sup> This law mandates an ecosystem-based approach to fisheries and explicitly prohibits destructive practices such as overfishing and the use of harmful gear. Furthermore, the law empowers local government units (LGUs) to co-manage fisheries through decentralized coastal resource management, a move that aligns closely with EAFM's participatory governance principles (Pomeroy & Andrew, 2011).

The Philippines has also developed the EAFM Planning Framework in collaboration with FAO and regional bodies, which supports policy coherence across fisheries, environment, and community development sectors.<sup>27</sup> This integration has led to measurable

<sup>24</sup> E Olsen and others, 'The Norwegian Ecosystem-Based Management Plan for the Barents Sea' (2007) 64 *ICES Journal of Marine Science*. [599–602].

<sup>25</sup> *Ibid.*

<sup>26</sup> Andrew LL Munchal, 'Community-Based Coastal Resource Management (CB-CRM): A Case Study of Mariveles, Bataan, Philippines' (2016) 1 *Journal of Wetlands Environmental Management*.[25].

<sup>27</sup> Robert S Pomeroy and Catherine A Courtney, 'The Philippines Context for Marine Tenure and Small-Scale Fisheries' (2018) *Marine Policy*.[17].

improvements in fisheries data collection, enforcement, and marine protected area governance. Indonesia could adopt similar decentralized and ecosystem-based governance models to enhance its own regulatory integration and fulfill WTO-linked sustainability goals.

Tabel 2. Comparison of Legal Incorporation of CCRF and EAFM

Country	Legal Status of CCRF Integration	Legal Status of EAFM Integration	Legal Instruments	Implementation Highlights
Indonesia	Referenced in policies and ministerial guidelines	EAFM guidelines issued, but non-bindin g	Law No. 31/2004 (amended); MMAF Regs	Fragmented governance; weak interagency coordination
European Union	Reflected in binding EU legislation	Codified via CFP with scientific support	Common Fisheries Policy (CFP); IUU Regulation	Strong traceability; external sustainability conditions
Philippines	Codified via Republic Act No. 10654	Legally mandate d through Fisheries Code	Fisheries Code (RA 8550 as amended)	Strong LGU role; integrated coastal management
Norway	Fully integrated into national law	Fully integrated based on science and precaution	Marine Resources Act; Quota Act	Strong science-policy link; enforceable quota system

Source: Processed by author, 2025

#### 2.4 Institutional Reform and Legal Capacity Building

Achieving sustainable fisheries governance in Indonesia not only depends on substantive legal reforms, but also on the institutional capacity to implement, monitor, and enforce these reforms<sup>28</sup>. Embedding principles from the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) into national law

<sup>28</sup> N Zulbainarni, D Indrawan and NI Khumaera, 'Does Indonesia's Fisheries Governance Ready to Achieve SDG's 14? The Role of Multi-Stakeholder in Fisheries Policy' (2020) 420 IOP Conf Ser: Earth Environ Science.[16].

will remain ineffective without corresponding improvements in institutional infrastructure and legal culture.

At present, Indonesia's institutional framework for fisheries governance is fragmented across multiple agencies, including the Ministry of Marine Affairs and Fisheries, the Ministry of Environment and Forestry, the Ministry of Trade, and regional and local authorities. Each operates with overlapping mandates and limited coordination, resulting in inefficiencies and conflicting policy objectives. For CCRF and EAFM principles to be implemented effectively, Indonesia must develop clear mechanisms for horizontal coordination among ministries and vertical coherence between central and local governments.<sup>29</sup>

One possible institutional innovation is the establishment of an inter-ministerial council on sustainable fisheries trade, with a mandate to harmonize legal instruments, oversee implementation of international commitments, and guide regulatory reform. This council should include representation from key stakeholders, including academic experts, non-governmental organizations, traditional fishers' associations, and coastal community leaders. It should be supported by a permanent secretariat tasked with policy coordination, legal drafting, and data sharing.

Additionally, regulatory capacity must be enhanced through targeted training, legal education, and institutional incentives. Many implementing agencies lack sufficient legal expertise in international environmental law and trade disciplines, limiting their ability to apply sustainability principles or respond to WTO-based challenges. Developing a cadre of legal professionals and public administrators with interdisciplinary competence in environmental, trade, and fisheries law will be essential.

The judiciary also plays a critical role in upholding sustainability standards. However, courts in Indonesia often lack the technical knowledge or interpretive tools to adjudicate complex environmental or fisheries disputes, particularly those involving international commitments or soft law norms.

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<sup>29</sup>A Solihin, D Isdahartati, A Damar and Erwiantono, 'Strengthening of Local Marine Protected Area (MPA) in Local Autonomy Era: Case of Bontang City East Kalimantan Province, Indonesia' (2020) 414 IOP Conf Ser: Earth Environ Science.[23].

Judicial training and the creation of specialized environmental benches or tribunals could improve access to justice and the consistent interpretation of sustainability norms.

Moreover, transparency and accountability mechanisms must be strengthened through legal mandates requiring open access to fisheries data, public consultation in regulatory design, and independent oversight of subsidy disbursement and enforcement actions. These mechanisms are essential to building public trust and ensuring that reforms are not undermined by corruption or elite capture. In short, institutional reform and legal capacity building are not peripheral to legal reform, but rather foundational components. Without these supporting structures, codifying CCRF and EAFM principles may lead to symbolic compliance rather than transformative change. By investing in institutional redesign, legal capacity development, and stakeholder inclusion, Indonesia can lay the groundwork for an integrated, accountable, and internationally respected fisheries governance regime.

## Conclusions

This study reveals that Indonesia's existing legal regime governing fisheries trade remains structurally misaligned with emerging international sustainability standards. Such a disjunction not only constrains the state's ability to uphold its global environmental and trade commitments, but also places the integrity of its marine ecosystems at considerable risk. In response to these challenges, two strategic reform directions are imperative:

### **1. Codification of International Normative Instruments into National Law**

Indonesia must formally incorporate the principles of the FAO Code of Conduct for Responsible Fisheries (CCRF) and the Ecosystem Approach to Fisheries Management (EAFM) into binding statutory instruments. This codification would transform aspirational commitments into enforceable legal standards, enabling regulatory clarity, improving accountability, and

reinforcing Indonesia's position in multilateral trade and environmental negotiations.

## 2. Adoption of an Integrated, Cross-Sectoral Legal Framework

To ensure effective implementation, legal reform should be accompanied by the harmonization of fisheries, environmental, and trade regulations under a unified sustainability framework.

Drawing from comparative models such as Norway and the Philippines, this strategy should include science-based subsidy eligibility criteria, transparent traceability mechanisms, and robust interministerial coordination. Through such institutional realignment, Indonesia can transition from fragmented governance to a coherent legal system capable of supporting sustainable marine resource management and resilient trade access.

## BIBLIOGRAPHY

Abdul Kamil Razak, Hartiwiningsih and Pujiyono, 'Implementation and Elimination of Actions Criminal Illegal Fishing Towards the Development of Sustainable Fisheries', International Journal of Religion (2024): 25.

Achmad Riyadi and T Suryono, 'Pollution of Coastal Areas of Jakarta Bay: Water Quality and Biological Responses'(2018)<[https://www.researchgate.net/publication/328254477\\_POLLUTION\\_OF\\_COASTAL AREAS\\_OF\\_JAKARTA\\_BAY\\_WATER\\_QUALITY\\_AND\\_BIOLOGICAL\\_RESPONSES](https://www.researchgate.net/publication/328254477_POLLUTION_OF_COASTAL AREAS_OF_JAKARTA_BAY_WATER_QUALITY_AND_BIOLOGICAL_RESPONSES)> accessed 16 July 2025.

Achmad Sani Alhusain, Kebijakan Pembangunan Ekonomi Kelautan Indonesia: Quo Vadis? (Buku Obor 2019).[36].

Andrew LL Munchal, 'Community-Based Coastal Resource Management (CB-CRM): A Case Study of Mariveles, Bataan, Philippines' (2016) 1 Journal of Wetlands Environmental Management.[25].

Annie Lalancette and Monica E Mulrennan, 'Competing Voices: Indigenous Rights in the Shadow of Conventional Fisheries Management in the Tropical Rock Lobster Fishery in Torres Strait, Australia' (2022) 21 Maritime Studies [255–277].

A Solihin, D Isdahartati, A Damar and Erwiantono, 'Strengthening of Local Marine Protected Area (MPA) in Local Autonomy Era: Case of Bontang City East Kalimantan Province, Indonesia' (2020) 414 IOP Conf Ser: Earth Environ Science.[23].

At-Sea Project, 'A Study of Illegal, Unreported and Unregulated (IUU) Fishing in the Arafura Sea, Indonesia'(2021)<<https://atsea-program.com/publication/a-study-of-illegal-unreported-and-unregulated-iuu-fishing-in-the-arafura-sea-indonesia/>> accessed 16 July 2025.

Christel Elvestad and Ingrid Kvalvik, 'Implementing the EU-IUU Regulation: Enhancing Flag State Performance Through Trade Measures' (2015) 46 Ocean Development & International La. [241–255].

David J Doulman, 'Code of Conduct for Responsible Fisheries: Development and Implementation Considerations' (FAO 2000)

<<http://www.fao.org/docrep/006/ad363e/ad363e00.htm>> accessed 16 July 2025.

E Olsen and others, 'The Norwegian Ecosystem-Based Management Plan for the Barents Sea' (2007) 64 ICES Journal of Marine Science. [599–602].

European Commission, 'Due Diligence Explained' (European Commission, 2022) [https://single-market-economy.ec.europa.eu/sectors/raw-materials/due-diligence-ready/due-diligence-explained\\_en](https://single-market-economy.ec.europa.eu/sectors/raw-materials/due-diligence-ready/due-diligence-explained_en) accessed 16 July 2025.

Food and Agriculture Organization, 'The State of World Fisheries and Aquaculture 2022: Towards Blue Transformation' (FAO,2022) <<https://openknowledge.fao.org/server/api/core/bitstreams/a2090042-8cda-4f35-9881-16f6302ce757/content>> accessed 16 July 2025.

Gia Nikawanti and Rukman Aca 'Ecoliteracy: Membangun Ketahanan Pangan Dari Kekayaan Maritim Indonesia' (2021) 2 Jurnal Kemaritiman: Indonesian Journal of Maritime.[114-115].

Jiayu Bai and Yuting Wu, 'How Can the Rule of Law under the WTO Framework Ensure Sustainable Fishery Governance through Fishery Subsidies? A Study from the Perspective of Special and Differential Treatment' (2023) Sciencedirect.[10].

Jill Wakefield, 'The Ecosystem Approach and the Common Fisheries Policy' in The Ecosystem Approach in Ocean Planning and Governance (Routledge 2018).

Kementerian Kelautan dan Perikanan (KKP) & WWF Indonesia, Laporan Pemantauan IUU Fishing di Perairan Natuna (2020).

'Laut' (World Resources Institute, 2025) <<https://wri-indonesia.org/id/ocean>> accessed 16 July 2025.

Law No. 45 of 2009 on Amendment to Law No. 31 of 2004 on Fisheries (Indonesia) of 2009.

Mongabay Indonesia, 'Tambang pasir laut di Sulawesi Utara rusak ekosistem pesisir' (Mongabay Indonesia, 2022) < <https://www.mongabay.co.id>> accessed 17 July 2025.

N Zulbainarni, D Indrawan and NI Khumaera, 'Does Indonesia's Fisheries Governance Ready to Achieve SDG's 14? The Role of Multi-Stakeholder in Fisheries Policy' (2020) 420 IOP Conf Ser: Earth Environ Science.[16].

Parsaulian, Baginda, Agus Irianto and Hasdi Aimon, 'Re-Thinking Indonesian Fisheries Policy: Empowerment of a Hidden Asset for Sustainable Fisheries in West Pasaman District, West Sumatra, Indonesia', International Journal of Environmental Impacts (2024): 17.

Robert S Pomeroy and Catherine A Courtney, 'The Philippines Context for Marine Tenure and Small-Scale Fisheries' (2018) Marine Policy.[17].

Roy Mardianto, 'Government's Concrete Action to Protect Natuna Waters from Foreign Vessels'  
(Cidiss,2025)  
<<https://cidiss.co/uncategorized-2/governments-concrete-action-to-protect-natuna-waters-from-foreign-vessels/>> accessed 17 July 2025.

Sulaiman, Farida Patittinggi, Abrar Saleng and Kahar Lahe, 'Legal protection of marine resources and fishery in the border area,' (2021) IOP Conference Series: Earth and Environmental Science 860.[23].

Umi Muawanah and others, 'Review of National Laws and Regulation in Indonesia in Relation to an Ecosystem Approach to Fisheries Management' (2018) Marine Policy 91.[150–160].

Yulia A Hasan, 'Implementation of International Instruments in Indonesian Legislation in the Field of Conservation of Fish Resources' (2015) Journal of Humanity.[3].

Yusuf, A., Ariadno, M.K., & Afriansyah, A.'Legal Framework and Mechanism of Marine Fisheries Subsidies in the Aspects of International Trade and Sustainable Development'(2015) Indonesia Law Review 5. [291-304].

Zulbainarni, N et al, 'Does Indonesia's fisheries governance ready to achieve SDG's 14? The role of multi-stakeholder in fisheries policy'(2020) IOP Conference Series: Earth and Environmental Science 420.[32].