

Aspects of Illegal Fishing

Neil Roberts, LMA

19th September 2023



Outline

- State of the Oceans
- Illegal Unregulated and Unreported
- Joint Hull IUU Clause
- Related issues





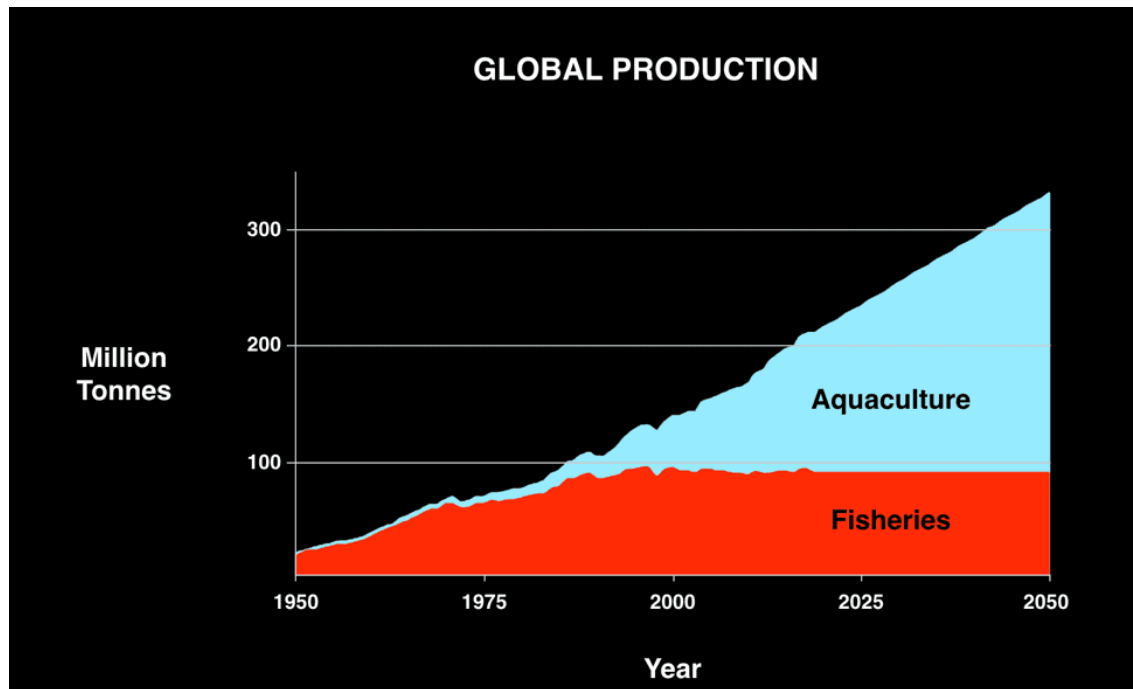
State of the Oceans

- Huge employer - infrastructure
- Overfishing
- Threats to the ecosystem
- Countries involved in fishing
- Consumption





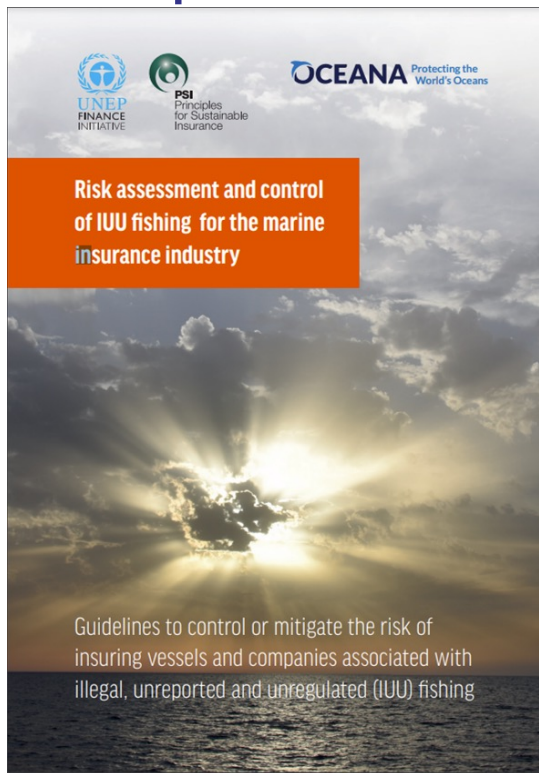
Growth of Aquaculture





Illegal, Unregulated or Unreported

- Proportion of IUU activity
- Perpetrators
- Regulators
- UNEP
- Oceana



#IUMI2023



Legal Position



- English law - if the operation is illegal, the policy is void
- Illegality defence seen as too passive by NGOs
- AIS – the flawed default
- Flag State responsibility
- Joint Hull work

JH2021-008

Automatic Identification System (AIS) Operation

- 1 As required by Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea (SOLAS) 1974 as amended and any modification thereof, the vessel's AIS shall, in so far as the Assured can control the matter: (a) always be in operation when the vessel is underway or at anchor; (b) be in operation in accordance with the requirements of the port, when in port.
- 2 In the event of breach of clause (1), Underwriters shall not be liable for any loss, damage, liability or expense arising out of or resulting from an accident or occurrence during the period of breach, unless the Assured satisfies Underwriters that the AIS was switched off because the Master believed that the continual operation of AIS might have compromised the safety or security of the vessel, or that the AIS was not in operation for reasons beyond the control of the Assured.
- 3 The Assured shall, if requested by Underwriters, permit the inspection of the vessel's AIS installation, maintenance and operational records as well as the vessel's log book.



Insurance – perception and reality

- Targeted by NGOs
- Liaison with industry partners
- Drafts and consultation
- RFMO listing
- Forced labour

JH2023-010

Fishing Vessel Due Diligence Clause

- 1. In no case shall this (re)insurance cover loss of, damage to, liability or expense in relation to any vessel that occurs or arises whilst the vessel is listed on the Illegal Unreported Unregulated (IUU) Fishing Vessel Lists of one or more Regional Fisheries Management Organisations (a “Listed Vessel”). Coverage for such vessels shall be automatically terminated from the date listed.
- 2. If a Listed Vessel is in the same ownership, same group of companies or same management as any other vessel insured hereunder (a “Related Vessel”), Underwriters may cancel the insurance of a Related Vessel by giving 7 days’ notice. If satisfactory clarification is obtained prior to the expiry of such notice of cancellation, the Underwriters may agree to reinstate the insurance of a Related Vessel subject to agreement between the Underwriters and the Insured
- 3. Where the Insured is subject to section 307 of the US Tariff Act 1930, as amended by the US Trade Facilitation and Trade Enforcement Act of 2015, any successor thereto or equivalent national legislation, payment of any claim shall be conditional on the Insured having undertaken due diligence as required by US Customs and Border Protection, or as required by other such legislation, evidence of which the Insured shall be prepared to produce, as required.



The Greyzone



- Chinese domestic pressures
- Distant Water Fleet
- South China Sea geopolitics
- Employment conditions, effectively modern slavery
- Sea blindness



Conclusions

- Insurance has good liaison with industry partners
- Aim is sustainability of the Blue Economy
- Difficult to co-ordinate – IMO, WoC, UNEP
- Linked economies need partnership not confrontation