

# **The Dark Fleet: Baiting Trouble**

**China's illegal fishing practices in Latin American shores**

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CHINA IN CONTEXT AND PERSPECTIVE

## **Introduction**

On 13 March 2016, Argentina's Naval Prefecture (the country's Coast Guard) intercepted an unregistered vessel illegally fishing within the Argentine Exclusive Economic Zone. After several attempts to intercept and subdue the boat, in which it repeatedly sought to ram the Prefecture ship, the trespasser was shot and sunk. Some members of the fisher crew, including its captain, were rescued and arrested; the rest were evacuated by other illegal fishing ships.

On 13 August 2017, Ecuador's Armada intercepted and detained a fishing vessel illegally trespassing its Galápagos Maritime Reserve, which runs a tight registry for allowed vessels in its waters. The trespasser had six thousand sharks worth of fins, a total of 300 tons. While it was determined that the ship had not engaged in fishing itself, it was transporting capture of illegal origin.

What both events have in common is that they involve two of China's enormous, unregistered, unregulated, predatory fishing fleet. What they have in contrast, is how each state reacted: while Argentina fined the crew (the amount range at the time merely went from USD 835 to 83,500, adjusted for inflation), Ecuador jailed it, confiscated all proceeds of the vessel for the Galápagos conservation fund, raised a note of protest for the Chinese embassy, and elevated the problem to international forums.

Argentina and Ecuador endure one of the largest IUU (Illegal, Unreported and Unregulated, according to FAO) fishing fleets in the world, which capture each year three times the legitimate, registered amount obtained by national vessels. Of the fleet near Argentina (dubbed the Blue Hole by Greenpeace), 40% belongs to China. Their earnings are six times that of Argentina's legitimate fishing, thanks to Beijing's fuel subsidies and tax breaks, in addition to free satellite navigation data. Because 90% of world fishing stocks are considered overexploited nowadays, average distance traveled to capture has doubled since 1950. Therefore fuel subsidies are vital for China's fishing fleet.

## **The Dark Fleet**

IUU fishing is the sixth most lucrative business in the world, according to the Spanish Institute of Strategic Studies, a think tank. It accounts for 15% to 35% of all world fishing. Almost half of IUU fishing vessels are thought to be China-registered or affiliated. For their part, China's entire fishing fleet may be eight times what Beijing publicly declares, according to research by ODI, a think tank, which estimates a total of 17 thousand vessels (900 operating in Latin America), many times over the largest fleet in the world. This also includes ships registered to other nations but which offload in China, and those entirely undeclared as fishing boats. A mere ten Chinese companies account for half of fish vessel registration, either through direct ownership or complicated, indirect subsidiaries. Many of those corporations being para-state enterprises; the largest are the China National Fisheries Corporation and the Poly Group.

The biggest proportion of vessel type in the Chinese fishing fleet (legal or not) is, according to ODI, 38% trawlers, 20% longliners, 13% squid-jiggers. ODI suspects that the proportion of trawlers, which are highly damaging to marine ecosystems because of their indiscriminate netting, could reach up to 60%. Most trawlers are registered to other nations because of Chinese regulations when operating in home waters. In these foreign shores, China often obtains fishing rights for legitimate fishing through deals that are often not profitable for the home nation, such as western African states.

Ships may register in other nations for a variety of reasons. Some are forced to in order to operate legally in the host country's waters, such as Ghana, the largest destination for Chinese registrations after China itself. Others do it seeking tax havens (which may include money laundering), such as Panama. The latter case is labeled 'flag of convenience'. Yet most Chinese vessels remain in Chinese registration for one simple reason: China itself is the most favorable flag of convenience, due

to very loose regulations and enforcement.

Indeed, China has not signed any of the basic maritime conventions. This includes the Fund for Compensation for Oil Pollution Damage of 1992, the Forced Labour Convention of 1930, and the Freedom of Association and Protection of the Right to Organise of 1948. Hiring southeast Asian workers for as little as USD 130 per month, they have carte blanche to proceed with them as they want to; Argentine independent research reports the IUU fishing fleet operating in their waters offloads an average of one dead sailor per month in Montevideo, Uruguay's capital.

### **The Blue Hole**

Law 23.968 on Maritime Spaces defines Argentina's Exclusive Economic Zone (EEZ) as 200 nautical miles, same as other seafaring nations. Within it, Argentina has sovereignty rights (which is not the same as full sovereignty, because non military ships can transit through without asking for permission). The IUU fleet in the Argentine sea, comprised of an estimate of 350 ships (Argentina's registered home fishing fleet is 250 vessels) then sets anchor between parallels 42° and 49°, at exactly the 201<sup>st</sup> mile, which is considered open waters and not subject to Argentine sovereign law. The fleet earns, according to independent national research, anything from USD 4bn to USD 15bn, from the capture of 400 to 500 tons of shrimp per year, which is the main food for hake, penguins, albatrosses and marine mammals such as whales, dolphins, elephant seals, and others.

IUU fishing at 'Mile 201', as it is known in Argentina, is done in two ways: ships cross into the EEZ, proceed with capture, then move outside before the Coast Guard can arrive; or they operate numerous, strong floodlights into the water at night, luring the fish outside of the EEZ and creating a 'maritime city' that can be seen from satellite imaging. Greenpeace indicates that the fleet is supported by four oil tankers and eight refrigerator boats, to reduce the need for these vessels to touch port; some of the latter are so old that they would not reasonably be allowed to set off anchors again once docked.



The Blue Hole at night. Source: Infobae

Argentina's counter measures are, at best, limited. The country only has at its disposal six boats and four planes when combining Naval Prefecture and Navy assets. It has patrolled the large Argentine sea for 74 hours in 2019, 133 in 2020, and 21 in 2021, according to Navy reports. Argentina has managed to capture 80 illegal fishing ships since the IUU fleet began operating in 1980; that means an average of two boats per year. Of those, 15 were South Korean, 12 Chinese, 11 Taiwanese, and 11 Spaniard; the rest belong to other nations including Uruguay and Argentina itself.

It's estimated that less than 1% of IUU fishing is stopped by law enforcement, and Argentina is no exception. Illegal fishing is not a crime for Buenos Aires, but an infraction with relatively miniscule fines. Just like China, and perhaps to avoid being forced to react against Beijing, the country has not signed FAO's 2009 Agreement on Port State Measures (PSMA) that seeks to combat IUU fishing. In July 2021, the Argentine Ministry of Foreign Affairs elevated a complaint to the WTO on subsidies for IUU fish vessels, though it only mentioned Taiwan and Spain, and not China.

### **Ecuador's Struggle**

The Galapagos Marine Reserve (GMR) contains 3500 protected species. It contains a registry of 500 authorized fishing boats. Since 2011 China has been illegally fishing for sharks; its IUU fishing boats constantly surround the Galapagos, illegally turning off their transponders for days or weeks at a

time. The Ecuadorian Navy indicates that this IUU fishing fleet is growing each year. Their main target is sharks, whose fins are consumed in China, the world's greatest fish importing and fish manufacturing country.

Following multiple reports and complaints elevated to the Ecuadorian government, in 2015 several confiscations were made before the IUU product could be taken to China. This led in 2016 to Ecuador expanding the GMR by 33%. With IUU fishing expanding still, in 2017 a publicized arrest was made (mentioned at the beginning of this report), that of the *Fu Yuan Yu Leng 999*. The case led to arrests and a conviction, and the confiscation of the whole capture and ship. Ecuador elevated a note of protest to China, then again in 2018 and 2019, appealing to fellow Latin American nations such as Peru, Colombia and Chile. These protests were amplified and supported by the Trump Administration. China repeatedly indicated its IUU fishing was minimal or non-existent.

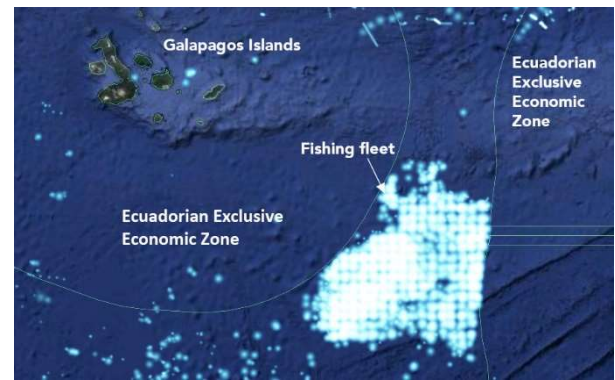
The pressure led to a joint Chinese-Ecuadorian effort in 2020 to confiscate IUU fished shark shipments in Hong Kong, which was considered a token display of Beijing's cooperation. The legal case did not come to fruition, and soon after China declared Ecuadorian shrimp to be COVID-19 infected, leading to a collapse of legitimate Ecuadorian shrimp exports, given 55% go to China. Ecuador elevated the issue to the Permanent Commission for the South Pacific, an organization instituted by the Santiago Commission of 1952, that installed the legal basis for the 200 nautical mile EEZ. This measure was accompanied by US State Department Mike Pompeo.

In an unusual gesture, China agreed to both prohibit fishing near Ecuadorian waters from September to November (to allow reproduction to develop), and inspections of Chinese vessels transiting between the Galapagos and Ecuador's continental EEZ. Despite the concession, or in reaction to it, the IUU fishing fleet turned its transponders off for a total of 17 days, leading to further Ecuadorian complaints. Ecuador's militant stance is related to the change of geopolitical alignment: China was a main benefactor of populist then-President Rafael Correa. Under his more moderate successor, Lenín Moreno, Ecuador took a more equidistant posture between China and the US.

### Baiting Trouble

IUU fishing is detrimental to the world's economy and ecology for a variety of reasons. It undermines legitimate fishing and de-incentivizes legal practices and tax paying. It destroys maritime ecosystems and reduces their sustainability. It deprives local subsistence fishing of product, harming fragile economies. It promotes slave-like labour conditions onboard IUU fish vessels. It pollutes the seas with plastic, fishing carcasses and other trash, furthering ecological damage. It enables money laundering in tax havens under flags of convenience. It makes international cooperation and coordination on fishing practices difficult. Finally, it damages China's image in the eyes of the world, for aiding and abetting spurious practices and pursuing irresponsible policies.

The two offered examples should serve as illustrative. While both countries are weak and have few options when compared to as China, there are ways. Argentina does not pursue legal action or adapts its legislation, nor raises protests, nor seeks international or regional help. It's Blue Hole fleet acts with impunity. Ecuador on the other hand has stricter legislation, proceeds with convictions, raises diplomatic protests, seeks regional allies, bandwagons with the USA, and has sought to expose and shame China. Because if there is something that Beijing is vulnerable to a fault, is its reputation.



The IUU fishing fleet. Source: Galapagos Conservation Trust.

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