

‘New Techniques for “Old” Uses: Earth Observation Systems (Satellites and Drones) and Private Platforms in the Fight against Illegal, Unreported and Unregulated Fishing

Abstract

The purpose of this submission is to identify the key pressure points under international law in using earth observation systems, such as satellites and drones, and private platforms in fisheries surveillance and enforcement.

New technologies, be it unmanned air vehicles (UAVs/drones) or satellite imageries, has recently been at the forefront of law enforcement operations at sea. The need to ensure maritime domain awareness over vast ocean areas coupled with the lack of conventional means (naval assets, coastguard vessels, airplanes) has made States to increasingly resort to new surveillance means for enforcement operations, including for fisheries enforcement. In most instances where satellite imagery is used in a monitoring programme, it is to provide advance notification to the enforcement authorities of legal non-compliance. Satellite data is most often used as an intelligence trigger, specifically to target resources at sea (or in the air), which will often enable enforcement authorities to collect direct evidence of the illegal act. Similar is the use of unmanned air vehicles that can be employed to patrol a more restricted maritime area.

In parallel, it is observed that States or international organisations resort to the use of private platforms in order to patrol maritime areas and even exercise enforcement powers. Suffice it to mention the use of private vessels, owned and operated by Sea Shepherd Conservation Society (SSCS), an environmental NGO, in fisheries enforcement operations commissioned *inter alia* by Ecuador, Palau, Gabon as well as the use of the *Lundy Sentinel*, a private vessel, by the European Fisheries Control Agency (EFCA) for fisheries inspection purposes.

This use of new techniques and technologies for fisheries surveillance and enforcement purposes gives rise to a plethora of interesting legal matters. The present submission will focus on three relevant questions:

- i) To what extent do these new means, e.g. the private platforms or the drones, satisfy the requirements for law enforcement under the international law of the sea, as reflected in the 1982 UN Convention on the Law of the Sea (LOSC)? For example, can a drone trigger the right of hot pursuit under Article 111 of LOSC (cf 2015 Arctic Sunrise case)?

- ii) What kind of immunities, if any, these platforms enjoy under international law?
- iii) To what extent is it possible to use satellite data as evidence for the prosecution of fisheries crimes?

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