

4 Lessons from Thailand and Australia on the Diffusion of Anti-IUU Fishing Trade Policy

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Introduction

The EU anti-IUU regulation in force since 2010 is a significant piece of policy work aimed to improve the conservation effort of global fish stocks in light of widespread IUU fishing practices occurring around the world. Many non-EU governments have been involuntarily engaged in the process over the years with some success, and after a decade-long implementation, the EU maintains its policy drive in third countries that have trade associated with the EU. This trade-restrictive regulation exerts influence on any countries exporting seafood to the EU and creates the intended effect of reducing the occurrence of IUU fishing and improving domestic management practices in the target countries. Hence, the scope of the policy is global, outward and unilaterally driven based on the EU's market power and political 'clout'.

According to a study by Mundy (2018), the EU carding system has had significant impact on seafood trade flows from countries carded yellow and red. The majority of the countries in the study sample, including Thailand, had declined export flows to the EU around the carding announcement and the period when the EU started dialogue with those countries. However, there have been reports of significant or sudden increases in imports in some of the yellow-carded countries. These peaks represent a 'race to trade', trying to move a lot of product in anticipation of any future import ban (receiving a red card), or an offloading of products when cards are lifted and markets become available again (Mundy, 2018, p. 15).

The sanction power attached to the EU IUU regulation allows the EU to police and ban trade from countries with seafood products caught by IUU fishing practices. The EU anti-IUU regulation, however, is considered compliant with the World Trade Organisation (WTO) for two reasons. First, the trade restrictive measures are carried out before and after an official warning or sanction given to the exporting countries by the EU. Second, the EU anti-IUU fishing import blocking process is not considered discriminatory or unjustifiable because the EU has applied

the same standard among EU member states and third countries (Leroy, Galletti & Chaboud, 2016, p. 86). In this sense, trade measures attached to EU anti-IUU trade policy should be understood as market power used by the EU over importing countries. Acting as a voluntary agreement, ‘only countries wishing to trade on the EU market need compliance’ (Miller, Bush & Mol, 2014, p. 141).

This book illustrates that the EU is essentially propagating its own sustainability aims relating to IUU fishing externally, and that policy diffusion is a useful theoretical lens to explore this outward promotion of the policy in non-EU countries. The US and Japan have subsequently also established regulations against imports of seafood deemed to be IUU. Both Australia and Thailand are (potential) ‘receivers’ of policy diffusion from the EU, US and Japan, but in different ways. Australia may choose to implement a similar kind of policy for its own seafood imports. Thailand on the other hand, has had to adopt the EU policy under coercive conditions. In concluding this book, we pull together some ideas from the policy diffusion literature to think about our case studies to make some general observations about the policy diffusion of anti-IUU regulation on seafood imports.

First, we think about our cases in terms of the four types identified by policy diffusion scholars – learning, competition, coercion and emulation (Braun & Gilardi, 2006; Gilardi & Wasserfallen, 2019; Shipan & Volden, 2008). Neither of our cases seem to be cases of diffusion as the result of competition – possibly the US and Japan establishing their own anti-IUU trade measures after the EU did were cases of diffusion as a response to competition between similarly large seafood markets who also have significant seafood production industries. The cases of Thailand and Australia, however, seem to be coercion in the case of Thailand, and learning and/or emulation in the case of Australia. We explore what the different forms of policy diffusion in the two cases reveal about the nature and possibilities of the spread of anti-IUU trade restrictions.

Second, Gilardi and Wasserfallen (2019) point out that there is politics in policy diffusion – it is not simply a technocratic spreading of best practice. Diffusion by coercion is clearly political, with a powerful state imposing the adoption of policy on another. However, diffusion by learning – adoption based on a rational judgement about whether a policy is effective – may also be political in that is often driven by the political effects of policies, especially electoral effects, rather than only being driven by the belief that a policy is best practice. Politics also plays a role in diffusion by emulation, which Gilardi and Wasserfallen (2019) distinguish from learning (based on rational judgement) by saying that emulation is based on moral or ethical judgements about the appropriateness of a policy. Ideology plays a role in perceptions of how

appropriate a policy is for emulation. Diffusion may thus vary depending on which party is in power. For example, liberal governments often adopt policies for human and minority rights, while conservative governments often adopt policies for stricter immigration control. As Gilardi and Wasserfallen (2019) point out, however, there is often overlap between learning and emulation. With ideologically driven diffusion the learning is selective, politicians ‘cherry pick’ the evidence for the policies they like, and ignore evidence against, and ignore evidence for policies they dislike. In our cases the diffusion of anti-IUU fishing trade policy reflects international political economy, ideological politics where domestic constituencies are key audiences for policy performances, and the mundane politics of jurisdictional turf marking within governments.

Third, we bring in the policy translation concept into the analysis of the two cases. While policy diffusion emphasizes the imitation of meaning constructed from one policy context to the political structure of the new context, Johnson and Hagström (2005) argue that there are three contributions to policy diffusion that can be made from the policy translation field. Policy translation helps us deepen and problematize the policy concept and idea, particularly in terms of examining local context, including social relations, and also by not assuming that policies are immutable as they travel, but are shaped by local actors (Mukhtarov, 2014). The situational characteristics of the receiving context are important. Johnson and Hagström (2005) draw ideas from early works of Latour (1986), to give weight to the importance of local actors, who transport the policy into the local organisation and translate them into action. Policy translation puts an emphasis on actors being involved in a continuous translation process through which society is constantly created and re-created. This means that the policy should be seen as an open, continuous process, as well as dependent on the societal distribution of power (Johnson & Hagström, 2005).

The Thailand case

Thailand’s experiences of the EU’s anti-IUU trade regulation fit the category of ‘coercive’ policy diffusion, but with additional add-on implications when exploring the policy results emerging on the ground. Coercion is the causal mechanism of policy diffusion when ‘policies are introduced because powerful countries or international organisations enforce policy changes’ (Gilardi & Wasserfallen, 2019, p. 1247). Often coercion refers to policy diffusion processes that move hierarchically, ‘with policy imperatives emanating out or ‘down’ from powerful centers’ (Peck, 2011, p. 787). Although ‘coercion’ implies top-down pressures, rather than horizontal interdependencies (Braun & Gilardi, 2006), in the case of Thailand the coercion lens is also useful for understanding how

powerful actors manipulate incentives ('carrots') and disincentives ('sticks') to influence others actors to implement policy change (Braun & Gilardi, 2006; Simmons, Dobbin & Garrett, 2006). Although, as noted earlier, the EU measure is voluntary and thus may be seen as not fully coercive, in practice the prospect of losing access to the EU seafood market was a dire enough prospect that the yellow card constituted a big 'stick' deployed by the EU to encourage Thailand to adopt policy measures to eliminate IUU fishing.

In the Thailand case, the EU anti-IUU policy used the key term of 'corporate' actor as part of the carding condition. This meant that once the Thai government showed interest in working towards downgrading from yellow to green card, the Thai government was therefore willing to cooperate with the EU through government-to-government dialogue. We propose that Thailand is an instructive example to highlight how domestically driven European normative values are interpreted and being integrated into a broader EU external fisheries policy. Policy diffusion scholars remind us of the importance of the communicative function of policy when moving from one space to the next. As Johnson and Hagström (2005, p. 366) put it: 'policies ought to be seen as bearers and generators of meaning'. EU normative values, which we elaborate below, refer to environmental sustainability of fisheries management, including conservation measures, transparency and protection of labour rights through the decent work and anti-forced labour agenda, following the International Labour Organisation (ILO).

EU anti-IUU fishing trade policy generates meaning for different stakeholders within the Thai seafood industry, in ways that fabricate different responses. In this book we have not discussed much beyond the Thai government, boat owners and fish workers regarding the meaning of IUU fishing defined by the EU. However, we would like to recognise the works of other scholars, who have been exploring non-state actors' responses towards the EU anti-IUU policy and the immediate impacts of the yellow card and the add-on issue of labour rights. These works contribute to a broader view of seafood supply chains actors, particularly upstream actors, for whom the policy could become a risk object (Wilhelm et al., 2020). The way in which EU activated economic control during the yellow card period, has for global north consumers generated a meaning of 'distrust' in Thai seafood supply chains. Drawing from policy diffusion and policy translation literature, we analyse Thailand's case in three ways: power asymmetry; ideology and normative power; and domestic politics.

Power asymmetry

The coercion policy diffusion lens helps us explore two aspects of power asymmetry between Thailand and the EU. First, the international political

economy of large market states forcing policy diffusion on developing exporting states is an obvious observation from our Thailand case. The EU has not given yellow or red cards to wealthy industrial countries nor key fishing nations like China, even when these are arguably engaged in IUU fishing (for discussion of China's approach to anti-IUU fishing see Song, Fabinyi & Barclay, 2022). Scholars have begun to criticise the power asymmetry between the EU and the carded countries, particularly in relation to reasons behind issuing cards and the process of government-to-government dialogue (Kadfak & Antonova, 2021; Miller et al., 2014).

The power asymmetry in the Thailand case is quite nuanced, and not simply forceful. The Thailand government has performed the role of a 'cooperative' partner to the EU. The EU has used mechanisms such as socialisation and partnership to ensure smooth policy translation in the Thai context (Kadfak & Antonova, 2021). Thailand has been portrayed as a successful example of EU anti-IUU policy implementation on the 10th anniversary of the policy on 11 December 2020 (EJF, 2022). However, the EU's anti-IUU ideas have been integrated into Thai national fisheries law and practices without the participation of all relevant Thai stakeholders. As we demonstrate in the Thailand chapter, boat owners, seafood processor companies, environmental and labour non-government organisations (NGOs) and workers have not been part of the dialogue. They have therefore not been able to provide reflexive voices as domestic policies were being formed, they have had these policies implemented upon them by the Thai government in a top-down manner. Such policy diffusion therefore was not participatory with all stakeholders, which raises questions about the sustainability of the policies due to potential legitimacy problems. Such concerns reflect a technical problem of this policy, being conducted only via state-to-state dialogue. Power asymmetry is observed not only in the relationship between the EU and Thailand governments, but also through relationships between the Thai government and domestic actors, who were excluded from the discussion table. In this way layers of politics of policy diffusion (Gilardi & Wasserfallen, 2019) are revealed. Moreover, looking through the lens of policy transfer at the Thailand case we see how the social relations of the local context affects diffusion. The top-down approach was possible because Thailand was having an authoritarian phase at the time (discussed below). This also means the policy has taken shape and is viewed in particular ways by stakeholders because of the authoritarian, top-down approach, and may ultimately undermine the adoption of anti-IUU policy in Thailand.

Moreover, the power asymmetry between the EU and Thailand has been connected to broader neoliberal economy and consumerism discourses beyond the policy regime. Ostensibly the Thai government acted rapidly

upon receiving a yellow card because of the potential threat that the EU would implement full sanctions. The Thai government actions enabled seafood exports to the EU to remain high. According to Mundy (2018, p. 14), between 2005 and 2016 (prior to and during the yellow card period), Thailand had the highest import volume and value of exports to the EU compared to 11 other carded countries. However, our Thailand chapter in this book and other recent studies (Bhakoo & Meshram, 2021; Wilhelm et al., 2020) have shown that the meaning of the carding system goes beyond the direct economic threat of trade measures. According to our interviews, Thai government officers and major seafood chain companies were concerned about what the yellow card meant for the image of Thai seafood and the loss of trust from EU member states and other seafood markets, as much as they were concerned about the actual threat of a red card. Among the companies' representatives we talked to economic risk has been translated into reputational risk (Wilhelm et al., 2020). In response, these companies have put more energy on Corporate Social Responsibility (CSR) projects, often in collaboration with local Thai NGOs (Kadfak, Wilhelm & Oskarsson, 2023).

Ideology and normative power

As argued in Gilardi and Wasserfallen (2019, p. 1246), policy learning is heavily mediated by politics, and decision makers filter their policy experiences. This is since policy adoption, embedded in policy cycles in a classical sense, is not a mere technocratic act, but is a political process, where information is processed through ideological lenses (ibid, p. 1251). Studies of European policy have used the concept of normative power (Manners, 2002, 2011) to explain the pushing of ideological stances as policy diffusion. EU 'green ideology' or the 'European Green Deal' is translated into fisheries policy through Common Fisheries Policy (CFP). And while the CFP is focussed on the green behaviour of EU member states, EU anti-IUU policy and the Sustainable Fishing Partnership Agreements (SFPAs) are the two core policies translating normative values of environmental sustainability to different parts of the world (Kadfak & Antonova, 2021; Thorpe et al., 2022).

It is difficult to measure the effects of ideology and normative power. '[C]lean lines of cause and effect are invariably difficult to establish, even where power asymmetries are extreme' (Peck, 2011, p. 787). However, one can observe how such ideology and values are triggered in the public sphere of the receiving country. To have a closer look at Thai government policy experiences during the fisheries reform, one may confirm that the EU has successfully 'mediated' the ideology of anti-IUU fishing into Thai policy discourse. For instance, Thailand declared 'anti-trafficking' and 'combating IUU fishing' as national agenda items during the reform.

The country has taken up a proactive role in promoting the elimination of IUU fishing. For instance, according to Deputy Prime Minister General Prawit Wongsuwon in a speech given at the United Nations to make Illegal, Unreported and Unregulated (IUU) fishing an environmental crime (Wipatayotin, 2019):

Thailand is proud of its success in tackling IUU. We hope to see further international cooperation in dealing with the issue. We also want to see the United Nations not only considering cases of fishing destruction, but also treating IUU fishing as a crime for which the culprits must be punished.

Not only has the EU praised the Thai government at international forums on their work to integrate EU anti-IUU regulations into Thailand's domestic fisheries management, the EU has provided Thailand with further support for anti-IUU fishing initiatives within South East Asia. Thailand is well positioned within ASEAN to take the lead role in adopting key EU anti-IUU policy and influence the other ASEAN member states. In 2019, with support from the EU, Thailand upheld its strategy of 'fighting [the] IUU agenda' in South East Asia by taking the lead in ASEAN IUU network (Kadfak & Linke, 2021). Thailand government authorities have provided technical support and knowledge exchange with the Vietnamese government during the current Vietnamese fisheries reform due having received a yellow card in 2017. The Thai government is helping to diffuse the EU's anti-IUU policy within the South East Asian region. With the help of Thailand the EU as policy sender is successfully creating 'common norms' whereby actors start to share similar views on which courses of action are appropriate and which are not, leading all actors to think the same way (Braun & Gilardi, 2006, p. 310).

Domestic politics in both policy-sender and -receiver states

EU domestic politics

When we discuss EU anti-IUU policy, it is important to keep in mind that the EU is not one political unit, but a collective of EU member states, some of which have more claims and influence over fisheries policy than others (Kadfak & Antonova, 2021), and indeed that non-state actors can also drive politics. We however would like to point out that the 'modern slavery' discourse has taken a central role in the initial response by the EU towards labour issues in seafood supply chains. According to our key informant interviews, international media and NGOs created strong pressure for the EU to include labour issues into the dialogue. In this way non-state actors played a key role in this case of policy diffusion, as

part of the political landscape in the EU. Evidence-based NGOs have been exposing the problem of human and labour rights seafood supply chains (Kadfak et al., 2023). Furthermore, there has been a coalition of international NGOs working closely with the EU to improve transparency in seafood supply chains and promote policies to combat IUU fishing. This coalition consists of The Environmental Justice Foundation (EJF), Oceana, The Nature Conservancy (TNC), The Pew Charitable Trusts and World Wildlife Fund (WWF).¹ The relationship between EU and this coalition remains understudied, but it is clear from our observations that this group of NGOs have prioritised evidence-based reports and media outreach to create norms and activism.

One of our informants did mention that the EU has internally discussed among different European Directorates to which extent that EU anti-IUU policy should expand to include the labour issue. Until then the ‘illegal’ in IUU referred to breaking fisheries laws, not labour laws. If the EU incorporates a labour rights agenda into formal anti-IUU regulations, the EU may dilute the strong fisheries focus of IUU. Moreover, putting human and labour rights into the anti-IUU trade measures, the EU risks the move ‘backfiring’ in that the trade measures may then come to violate WTO principles (Leroy et al., 2016; Wongrak et al., 2021). To our knowledge, the Thailand case remains the only unorthodox instance where labour rights have been included as part of fisheries dialogue (Kadfak & Linke, 2021).

While this next point has already been taken up in the chapter on Thailand, it is important to emphasize here again, how the policy diffusion lens allows us to unpack the labour ‘add-on’ during the EU-Thai dialogue for fisheries reform. In this case, the external policy of EU anti-IUU regulation has become a reflexive policy version of the EU’s internal political agenda on human and labour rights within seafood trade policy. The non-linear nature of policy spread on labour standards is not new. The EU has been working with ILO labour standards and the ILO as an active agency to promote the ‘European Social Model’ where labour standards should be advanced through external activities and trade policy (Orbie, 2011).

Instead of pushing for its own definition of IUU fishing, the EU has used well-accepted descriptions of IUU from international organisations, in ways that benefit the EU. According to Gilardi and Wasserfallen (2019), it is important to explore the politics of policy diffusion in the early stages of the policy cycle. This is the stage for ‘issue definition’, where policy creators can change the terms of political debate, creating taboos or increasing the acceptance of ideas in mainstream political discourse (ibid, p. 1250). The EU anti-IUU policy is often known as the ‘heavy-weight’ of anti-IUU policies, following the United Nations Food and Agriculture Organisation (FAO) International

Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) and the Code of Conduct for Responsible Fisheries. In other words, the EU's anti-IUU regulation replicates international norms and guidelines, which were established before the birth of EU anti-IUU policy and have generally been well accepted in international affairs. In this way the EU created an airtight connection between its anti-IUU policy and the 'issue definition' on IUU in existing international discourses on the wicked problem of IUU fishing globally. This point has come out quite clearly from our interviews with the EU officers that Thailand should comply with existing measures on the conservation and management of Regional Fishery Management Organisations (RFMOs) and, where relevant, international laws that address IUU fishing, and there is no specific requirement to follow particular EU regulations.

Thailand domestic politics

Policy diffusion has never existed in a policy vacuum in the recipient country. The existing national-level policy field has a major influence on how diffused policy ideology and practices become materialised and institutionalised (Song et al., 2019). Thailand's political situation during the time of receiving the yellow card – with a military junta government being in power – shaped the rapid and corporatist response towards pressure from the EU for significant change in fisheries governance, including human and labour rights in the seafood sector. The military government responded proactively to improve the image of the country as a seafood producer and processor, to prevent further trade sanctions in other sectors (Auethavornpipat, 2017). One of our informants (an EU representative) opined that the outcomes of the reform would have been different, much slower, if the Thai government at the time had come from a democratic election. Electoral party politics would potentially have prevented the proactive determination to 'get rid' of the yellow card that was demonstrated by the military government. The case of Thai reforms shows how domestic processes and internal factors can facilitate, block and otherwise influence the trajectory of policy diffusion (Song et al., 2019, p. 139).

The Australia case

Australia's position in relation to anti-IUU fishing trade measures is different to Thailand's in that Australia is not a significant exporter to the EU or the US, and thus has not been the focus of anti-IUU import rules as a coercive measure. Australia is not in competition with Thailand and other countries exporting to the EU or US, so does not

need to ‘keep up’ with the compliance of other exporting countries, nor is Australia in direct competition with the EU, US or Japan as large seafood importing markets. Economic competition is thus also not a potential driver for Australia to adopt anti-IUU fisheries trade restrictions. In this book we have considered Australia as a jurisdiction that might consider implementing similar kinds of trade restrictions as have been applied by the EU, US and Japan. In this way Australia is a potential ‘receiver’ of policy diffusion by the EU, US, and Japan, through learning or emulation mechanisms of diffusion.

Relative to other countries discussed in this book Australia is a small seafood trading country and has small per capita consumption of seafood (Department of Agriculture, Fisheries and Forestry, 2022). The adoption of anti-IUU trade rules by Australia would thus not have a major impact on global seafood trade flows. The seafood supply chains in which Australia is implicated, however, are very relevant for the question of using anti-IUU trade restrictions. Australia’s seafood imports mainly come from Thailand, China, Vietnam and New Zealand, and its exports mainly go to China, Vietnam, Japan and Hong Kong (Steven, Mobsby & Curtotti, 2020). Thailand, China (including Hong Kong) and Vietnam are all countries for which IUU concerns have been raised internationally – with Thailand having been through an EU carding process and Vietnam facing this challenge at the time of writing. The EU has chosen not to apply its anti-IUU measures to imports of seafood from China, but China has a poor reputation regarding IUU, scoring the highest of any country in the world on the global IUU index (Macfadyen & Hosch, 2021). If Australia were to adopt similar kinds of anti-IUU trade restrictions as the EU, US or Japan, it could greatly change seafood markets within Australia. Moreover, Australia was active in the international sphere in creating the norm of anti-IUU and in developing measures to combat IUU, including import restrictions, and so seemed a likely candidate for adopting the policy itself, but it did not. The Australia case is thus instructive for this book because it provides material for considering the limitations of anti-IUU trade rules diffusing broadly to other countries.

Australia and anti-IUU fisheries trade measures

The Australian government was an active party driving international initiatives against IUU through the United Nations Food and Agriculture Organisation (FAO), such as the Port States Measures Agreement (PSMA) and the International Plan of Action against Illegal, Unreported and Unregulated fisheries (IPOA-IUU), both of which foreground the prevention of IUU catch from reaching markets. For example, in 2000 the Government of Australia hosted, with the FAO, an expert consultation

on IUU that was foundational to the International Plan of Action (FAO, 2001). Australia was one of the early countries to sign and ratify the PSMA (FAO, 2023). Australia was also active in creating catch documentation schemes for Patagonian toothfish under the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), and for southern bluefin tuna under the Convention for the Conservation of Southern Bluefin Tuna (CCSBT). These catch documentation schemes were specifically to allow importing countries to refuse to import undocumented toothfish or southern bluefin tuna.

The schemes have arguably been very effective. The CCAMLR catch documentation scheme used to prevent IUU fish being imported is widely accepted as having been one of the factors in successfully reducing the unsustainable levels of fishing on Patagonian toothfish since its adoption in 1999 (CCAMLR, 2023). Under the CCSBT management regime Southern bluefin tuna stocks have started to recover from their badly overfished state, with the IUCN redesignating the species from Critically Endangered to Endangered in 2021 (IUCN, 2021). After having been so active in developing anti-IUU policies, and in the face of evidence that importation restrictions could be effective in reducing IUU, the fact that Australia did not then adopt anti-IUU trade policy itself raises questions about the limitations of policy diffusion.

The emulation mechanism of policy diffusion, Australia and anti-IUU fisheries trade measures

The policy diffusion literature has tended to assume that adoption is based on rational calculations of whether a policy is effective in achieving objectives. Gilardi and Wasserfallen (2019, p. 1278) point out that most studies of diffusion assume that policy makers adopt policies because they learn that the policy is effective, or they feel it is necessary adopt a policy to avoid unpleasant consequences from a coercive process or through losing out in competition with other states. Emulation has not been written about as much as the other three types of diffusion. Emulation has been the category for motivations for policy adoption based the perceived morality or appropriateness of policies, rather than on evidence-based assessments of the success or failure of policies applied elsewhere (Gilardi & Wasserfallen, 2019, p. 1249).

The conceptualisation of emulation as a policy diffusion mechanism has been influenced by social constructivist thinking, which has focussed on the role of norms and conventions in policy spheres, such as international agencies and organisations, inspiring policy makers to adopt policies that conform with these norms (Finnemore & Sikkink, 2001). The spread of human rights policies following the Universal Declaration of Human Rights (1948) is a prominent example of a policy diffusing

because it is seen as the ‘right thing to do’. Anti-IUU policy fits within this conceptualisation of policy diffusion by emulation, with norms against IUU having been generated and promoted through deliberations of the FAO, leading to conventions such as the PSMA, IPOA-IUU and through CCAMLR and CCSBT and their management measures. IUU was named as a problem and the fight against IUU raised as an important fisheries management norm within these international organisations, developing further into measures including trade restrictions, which then went on to be adopted in member states.

From a constructivist perspective, Australia seemed well placed to emulate the EU anti-IUU seafood import policy. The Australian government actions noted above and the quotes presented in Chapter 3 clearly show that Australian fisheries policy-makers shared the norm that IUU should be tackled with various tools, including trade restrictive measures. At the time of writing, however, the emulation mechanism had not been strong enough to cause Australia to adopt the policy. The Australia case therefore shows one kind of limitation to policy diffusion by emulation – policy actors may promote a policy as appropriate internationally, and for other states, but see it as not being appropriate for themselves. Thinking through why Australia did not adopt anti-IUU trade measures reveals more about the limitations to policy diffusion in this case.

Why did Australia not adopt anti-IUU fisheries trade measures?

The materials we have examined for the Australian case in this book do not provide a clear answer on why Australia did not adopt anti-IUU fisheries trade measures, when it promoted them internationally. Australian government statements on the topic reveal some policy incoherence. For example, the federal Department of Agriculture, Fisheries and Forestry (DAFF) said in its submission to the Inquiry on Country of Origin Labelling (Commonwealth of Australia, 2014) that DAFF opposed introducing any sustainability measures on imports, for reasons including that they could be trade restrictive, and that they increased regulatory burden, noting that Australian exporters were suffering from the regulatory burden of import measures of other countries (Submission 11).² DAFF is responsible for Australia’s anti-IUU actions internationally and so had been the agency active in developing trade measures for toothfish and southern bluefin tuna, in part to promote the interests of Australian fishing companies involved in these fisheries. Opposing Australia’s adoption of the measure domestically is thus inconsistent with DAFF’s actions internationally.

It is possible that ideological politics may play a role in this case of a failure of policy diffusion, with the Labor Party that came to power

in 2022 more willing than the previous conservative Liberal National coalition government to consider regulation on imports. The material to hand at the time of writing, however, is not sufficient to make a case either way regarding ideological politics and policy diffusion of anti-IUU fisheries trade measures. Some of the explanation of why Australia refused to adopt anti-IUU policy seems to lie in the relative capacities of different interest groups to secure policy support. The politics of influence varies among large-scale, export-oriented fisheries, small-scale fisheries targeting domestic markets, seafood importing businesses and the hospitality sector. Another part of the explanation seems to lie in the domestic administrative and jurisdictional structure not being amenable to applying fisheries measures further along the supply chain, and institutional inertia against change.

Interest group politics

In addition to combatting IUU, another prominent objective for EU and US measures to prevent IUU products entering domestic markets is to 'level the playing field' between domestically produced seafood subject to regulation to prevent overfishing, and imported seafood which may not have been subject to the same level of regulation (Damanaki & Lubchenco, 2012). The anti-IUU trade measures in the EU and US, then, constitute government support for their respective fishing industries. By contrast, the Australian National Plan of Action on IUU (Department of Agriculture, 2014) is silent on using anti-IUU measures to level the playing field between domestically produced seafood and imports. Australian fishing industry groups as well as non-government organisations have argued that it is likely that some of the seafood imported to Australia is from IUU fisheries and is disadvantaging regulated domestic producers, giving evidence from shark fisheries.³

Australia's split position on anti-IUU trade measures – supporting them for overseas markets but not adopting one itself – in effect gives differing levels of support to different segments of the Australian fishing industry. In promoting anti-IUU measures for Patagonian toothfish and Southern bluefin tuna, the Australian government supported the interests of large-scale, export-oriented Australian companies that were suffering from international IUU fishing in these fisheries. But in refusing to adopt anti-IUU trade measures itself, the Australian government has declined to support the smaller-scale segment of the Australian fishing industry that sells in domestic markets and competes against cheaper imported seafood.

The Australian government's choice not to support with anti-IUU trade measures the smaller-scale, less profitable segment of the fishing industry that supplies domestic markets aligns with various other fisheries

management policy choices at state and federal levels since the 1990s. Policies have tended to shrink the numbers of commercial fishing operators, making unviable the smaller, less profitable, diversified (by gear and target species) operations and favouring larger, specialist, more profitable fishing operators. Incentivising certain types of fishing business and discouraging other business models has occurred through the application of individual transferable quotas and other management measures that require companies to undertake sophisticated administrative reporting (Fabinyi & Barclay 2022; Minnegal & Dwyer 2008). As an interest group, the segment of the fishing industry selling in domestic markets that would benefit from anti-IUU fishing regulation on imports and from Country of Origin Labelling (CoOL), seems to have less weight with the Australian government than seafood importers and the hospitality sector, who benefit from cheap imports. Several government agencies opposed introducing CoOL for seafood in food service industries on the grounds that it would increase the regulatory burden for seafood importers and retailers (Submissions 4, 19, 11).

The Australian case thus shows that policy diffusion is mediated by the politics of influence between interest groups who would be differently affected by the policy with the receiving government. Further, the Australian case shows that this politics of influence can be complex. The Australian government has not supported the seafood industry as a whole, or even the fishing industry as a whole, but has acted in a way that supports the interests of some parts of the industry and disadvantages others.

Jurisdictional boundaries

Policy diffusion is also related to domestic regulatory frameworks. Arguably Australia's domestic regulatory framework was not very amenable to regulation for fisheries using trade measures, because fisheries regulation had hitherto been restricted to the harvest node of the supply chain. Once seafood leaves the harvest node it is regulated by government mainly in terms of food safety. The legality of catch is largely not regulated in markets. The related issue of the sustainability of the mode of fishing is portrayed by government actors as something that should not be regulated by government but be left to consumer choice (Garcia Garcia, Barclay & Nicholls 2020).

This means that when thinking about the receiving government and the potentials for policy diffusion, we must disaggregate the state. Different domestic agencies have varied responsibilities, roles, interests and priorities. The health agencies that have thus far been the ones responsible for regulating seafood in domestic markets are not interested in the sustainability or legality of fish harvesting, nor do they have the capacity to

regulate for it. Submissions made by Australian federal and state fisheries management agencies to the CoOL Inquiry reiterate the position that fisheries management in Australia occurs in the fishing node of the supply chain, not at the importing or market end of the chain, and they showed no willingness to change this situation (Submissions 4, 11). This is quite different to the EU and US, where the anti-IUU importation regulations are under the aegis of fisheries management – they are administered in the EU by the Directorate-General for Maritime and Fisheries (DG Mare) and the US SIMP was legislated under the *Magnuson-Stevens Fishery Conservation and Management Act*. A substantive change in Australian fisheries management and seafood regulatory bodies' perceptions of their respective responsibilities would be needed for anti-IUU seafood importation regulations to be developed and implemented.

The possibility of institutional flexibility is visible in the changing uses of traceability mechanisms in the EU, where tools for food safety have been co-opted for use in anti-IUU. The legality of fish catches for EU and US importation purposes is now traced via catch documentation schemes (He, 2018, Helyar et al., 2014). The EU anti-IUU traceability system was developed from the traceability regulations already in place for food safety (Lewis & Boyle, 2017). The Australian National Plan of Action on IUU (Department of Agriculture, 2014), however, precluded the use of traceability for anti-IUU efforts, limiting its use to food safety purposes. Again, the demarcation between different government roles and purposes was used as a reason for Australia to not adopt the policy.

In sum, we can say several things about the limitations to policy diffusion revealed by the Australian case. The conditions were conducive for anti-IUU fisheries trade policy to diffuse to Australia, by either emulation or learning mechanisms, but the policy was not adopted. The reasons the policy did not diffuse included political reasons, such as the interest group that could have benefited from anti-IUU trade policy being relatively less influential than other interest groups that did not want the policy to be established. Moreover, the Australian 'state' for the purposes of policy diffusion was not a unitary actor, but was made up of agencies. Jurisdictional boundaries that prevented policy adoption were adhered to and agencies refused to change. The situation may change with the change of government in 2022, from a conservative to a more liberal party. The new Labor Party Minister for Fisheries has opened up discussion on the idea of anti-IUU fishing import regulations.

Conclusion

Our book is one of the first focusing on the ‘reception’ of EU anti-IUU policy in other countries, using the conceptual framework of policy diffusion to examine the adoption potential of the EU trade restrictive regulations as a means of curtailing the occurrence of IUU fishing globally. Based on primary empirical data, the book performs an analysis of how two countries – Thailand and Australia – have dealt with such a measure, and examines what kind of domestic processes have driven outcomes and their respective outlooks. The two case studies we present in this book reflect how the global community concerned with policy settings can expect future implementation of the trade-based regulation in other countries to control IUU fishing to unfold. From these analyses, our book offers answers on how countries will adapt to changing policy norms regarding IUU fishing.

We have elaborated concrete examples of how two countries, positioned differently on the receiving end of the policy, engage with EU implementation. Understanding the (re)actions of “other” countries, who might be targeted or otherwise influenced by the policy, will form an essential new knowledge that helps inform a more effective and scalable implementation of the policy on the part of the EU, and a better governance preparedness on the part of non-EU fishing nations. In particular this book exposes a key moment of change in the compatibility between environmental regulations and international trade. The EU anti-IUU policy is a prime example of a policy that uses the mechanisms of international trade to account for environmental and conservation objectives. By way of the unilateral and trade-restrictive stance against IUU fishing, the EU has positioned itself as a major market and normative power, driving its sustainability norms outwards. This book sheds light on the efficacy of this policy setup based on the analysis of country perspectives, which is a key factor influencing its potential spread.

While the main focus of this book is the potential for the policy to spread and the impact of trade measures in the two cases, it is also important to reflect further on what has been revealed by our in-depth analysis of each case. We observe that the outcomes of implementing anti-IUU trade measures is not restricted to trade pressures and the promotion of anti-IUU ideology in third countries and global politics. Rather, the EU anti-IUU policy has also exerted normative and ideological powers that have been influential in Australia’s and Thailand’s domestic policy regarding IUU fishing. This book therefore takes a step further than Sumaila’s (2019) study on the economic risks of IUU fishing in the context of the EU carding system. We agree with Sumaila’s work that major seafood markets like US and Japan should adopt anti-IUU

trade measures to enable the regime to have a global impact. However, our study also shows that the Thai governments worked hard to avoid the reputational risk of being seen as a ‘bad actor’ in IUU fishing globally. Economic risk, therefore is part of a bigger picture in which less tangible forms of power over reputation are also at play.

Moreover, exploring Australia as a potential adopter of the EU IUU policy is a novel approach, since we might expect more middle-ranking importing countries would feel pressure to act in line with major importing countries and the new fisheries norm to address IUU problems with market power. Without a cohesive global policy on trade from IUU fisheries, seafood from IUU fisheries can still find markets. Kadfak learned from fieldwork to Thailand in early 2023 that some seafood caught in Thailand has deviated away from the EU and US to other markets in Asia, including China, which have less restrictive requirements. Researchers have started exploring how China as a major seafood market and fishing nation could shape IUU fishing, albeit through incoherent policy (Song, Fabinyi & Barclay, 2022). So far, we know very little about how the EU anti-IUU policy has affected South-South seafood trade flows to avoid strict regulation. This aspect of implications from the policy requires further study. Moreover, a more long-term approach to explore policy adoption via bilateral dialogues is needed to truly understand the impact of EU anti-IUU policy beyond EU borders.

Finally, this book provides insights as to how the governance interactions between the EU and other fish exporting/importing nations might need to be adjusted to improve the effectiveness of the aforementioned policy. The book offers thoughts on whether the current mode of implementation provides a scalable solution towards reducing global incidences of IUU fishing. We hope that this book will provide a unique perspective on IUU fishing from two different receiving ends, in ways that illustrate how and with what consequences a unilateral environmental policy aimed at discouraging IUU fishing actually plays out in other countries which might be expected to align or comply with the EU policy direction.

Notes

- 1 For more information about the EU IUU fishing Coalition, please see <https://www.iuuwatch.eu/about/> (retrieved February 5, 2023).
- 2 The submission documents are available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Seafood_labelling/Submissions (retrieved February 1, 2023).
- 3 The argument about imports from IUU fisheries disadvantaging regulated Australian shark fisheries was made by the Southern Shark Industry Alliance (SSIA) and Traffic International (Submission 13) and the seafood industry

Common Language Group, under the Fisheries Research and Development Corporation (Submission 17 Attachment 2) in submissions to the CoOL Inquiry. See: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Seafood_labelling/Submissions (retrieved February 1, 2023).

References

- Auethavornpipat, R. (2017). Assessing regional cooperation: ASEAN states, migrant worker rights and norm socialization in Southeast Asia. *Global Change, Peace & Security*, 29(2), 129–143.
- Bhakoo, V., & Meshram, K. (2021). Modern slavery in supply chains. In *The Routledge Companion to Corporate Social Responsibility* (pp. 268–280). Abingdon UK: Routledge.
- Braun, D., & Gilardi, F. (2006). Taking ‘Galton’s problem’ seriously: Towards a theory of policy diffusion. *Journal of theoretical politics*, 18(3), 298–322.
- CCAMLR (2023). Elimination of IUU fishing and the World’s First Catch Documentation Scheme [web page]. Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). Retrieved March 6, 2023 from, <https://40years.ccamlr.org/elimination-of-iuu-fishing-and-the-worlds-first-catch-document-scheme/#:~:text=In%201999%2C%20CCAMLR%20developed%20the,Documentation%20Scheme%20for%20Dissostichus%20sp>
- Commonwealth of Australia (2014). *Current requirements for labelling of seafood and seafood products*. Canberra: Parliament of Australia. Retrieved March 5, 2023 from, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Seafood_labelling
- Damanaki, M. & Lubchenco, J. (2012). *Joint statement by European Union Commissioner for Maritime Affairs and Fisheries Maria Damanaki and United States Under Secretary of Commerce for Oceans and Atmosphere Jane Lubchenco, PhD.*, press release, Brussels: European Commission. Retrieved December 12, 2019 from, http://europa.eu/rapid/press-release_MEMO-12-382_en.htm?locale=en
- Department of Agriculture (2014). *Australia’s second national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing*. Canberra: Department of Agriculture. Retrieved February 27, 2023 from, <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/fisheries/iuu/aus-second-npoa-iuu-fishing.pdf>
- Department of Agriculture, Fisheries and Forestry (2022). Fisheries and aquaculture statistics website, ABARES, Canberra. Retrieved January 31, 2023 from, <https://www.agriculture.gov.au/abares/research-topics/fisheries/fisheries-and-aquaculture-statistics>
- EJF (2022). Driving Improvements in Fisheries Governance Globally: Impact of the EU IUU Carding Scheme on Belize, Guinea, Solomon Islands and Thailand. Environmental Justice Foundation (EJF). Retrieved March 13, 2023 from, <https://ejffoundation.org/resources/downloads/EU-IUU-Coalition-Carding-Study.pdf>
- Fabinyi, M., & Barclay, K. (2022). *Asia-Pacific Fishing Livelihoods*. Palgrave Macmillan.

- FAO (2001). International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Food and Agriculture Organisation of the United Nations (FAO), Rome. Retrieved March 6, 2023 from, <https://www.fao.org/3/y1224e/y1224e.pdf>
- FAO (2023). FAO Treaties Database, Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) [website]. Retrieved March 6, 2023 from, <https://www.fao.org/treaties/results/details/en/c/TRE-000003/>
- Finnemore, M., & Sikkink, K. (2001). Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics. *Annual Reviews in Political Science*, 4, 391–416.
- Garcia Garcia, S., Barclay, K., & Nicholls, R. (2020). The multiple meanings of fish: Policy disconnections in Australian seafood governance. In E. Probyn, K. Johnston, & N. Lees (Eds.), *Sustaining seas: Oceanic space and the politics of care* (pp. 75–86). London & New York: Rowman & Littlefield.
- Gilardi, F., & Wasserfallen, F. (2019). The politics of policy diffusion. *European Journal of Political Research*, 58(4), 1245–1256.
- He, J. (2018). From country-of-origin labelling (COOL) to seafood import monitoring program (SIMP): How far can seafood traceability rules go? *Marine Policy*, 96, 163–174. 10.1016/j.marpol.2018.08.003
- Helyar, S. J., Lloyd, H. A. D., de Bruyn, M., Leake, J., Bennett, N., & Carvalho, G. R. (2014). Fish product mislabelling: Failings of traceability in the production chain and implications for Illegal, Unreported and Unregulated (IUU) fishing. *PLoS ONE*, 9(6). 10.1371/journal.pone.0098691
- IUCN (2021). Tuna species recovering despite growing pressure on marine life – IUCN Red List. Press release, September 4. International Union for the Conservation of Nature (IUCN). Retrieved March 6, 2023 from <https://www.iucn.org/news/species/202109/tuna-species-recovering-despite-growing-pressures-marine-life-iucn-red-list>
- Johnson, B., & Hagström, B. (2005). The translation perspective as an alternative to the policy diffusion paradigm: The case of the Swedish methadone maintenance treatment. *Journal of Social Policy*, 34(3), 365–388. doi:10.1017/S0047279405008822
- Kadfak, A., & Antonova, A. (2021). Sustainable Networks: Modes of governance in the EU's external fisheries policy relations under the IUU Regulation in Thailand and the SFPA with Senegal. *Marine Policy*, 132. 10.1016/j.marpol.2021.104656
- Kadfak, A., & Linke, S. (2021). Labour implications of the EU's illegal, unreported and unregulated (IUU) fishing policy in Thailand. *Marine Policy*, 127. 10.1016/j.marpol.2021.104445
- Kadfak, A., Wilhelm, M., & Oskarsson, P. (2023). Thai Labour NGOs during the 'Modern Slavery' Reforms: NGO Transitions in a Post-aid World. *Development and Change*. 10.1111/dech.12761
- Leroy, A., Galletti, F., & Chaboud, C. (2016). The EU restrictive trade measures against IUU fishing. *Marine Policy*, 64, 82–90. 10.1016/j.marpol.2015.10.013
- Lewis, S. G., & Boyle, M. (2017). The expanding role of traceability in seafood: Tools and key initiatives. *Journal of Food Science*, 82, A13–A21. 10.1111/1750-3841.13743

- Macfadyen, G. & Hosch, G. (2021). The IUU Fishing Index, 2021. Poseidon Aquatic Resource Management Limited and the Global Initiative Against Transnational Organized Crime. Retrieved March 6, 2023 from, <https://iuufishingindex.net/profile/china>
- Manners, I. (2002). Normative power Europe: a contradiction in terms? *JCMS: Journal of common market studies*, 40(2), 235–258.
- Manners, I. (2011). The European Union's normative power: critical perspectives and perspectives on the critical. In Whitman, R. G. (ed.), *Normative Power Europe: Empirical and Theoretical Perspectives* (pp. 226–247). Basingstoke UK: Palgrave MacMillan.
- Miller, A. M., Bush, S. R., & Mol, A. P. (2014). Power Europe: EU and the illegal, unreported and unregulated tuna fisheries regulation in the West and Central Pacific Ocean. *Marine Policy*, 45, 138–145. 10.1016/j.marpol.2013.12.009
- Minnegal, M., & Dwyer, P. D. (2008). Managing risk, resisting management: stability and diversity in a Southern Australian fishing fleet. *Human Organization*, 67(1), 97–108. doi:10.17730/humo.67.1.x38g60k463p26855.
- Mukhtarov, F. (2014). Rethinking the travel of ideas: Policy translation in the water sector. *Policy & Politics*, 42(1), 71–88. 10.1332/030557312X655459
- Mundy, V. (2018). *The impact of the EU IUU Regulation on seafood trade flows: Identification of intra-EU shifts in import trends related to the catch certification scheme and third country carding process*. Brussels, Belgium: Environmental Justice Foundation, Oceana, The Pew Charitable Trusts, WWF. Retrieved March 23, 2023 from, https://europe.oceana.org/wp-content/uploads/sites/26/tda_report_iuuwatch_hq.pdf
- Orbie, J. (2011). Promoting labour standards through trade: normative power or regulatory state Europe? In Whitman, R. G. (ed.) *Normative Power Europe: Empirical and Theoretical Perspectives* (pp. 161–184). Basingstoke UK: Palgrave MacMillan.
- Peck, J. (2011). Geographies of policy: From transfer-diffusion to mobility-mutation. *Progress in Human Geography*, 35(6), 773–797. 10.1177/0309132510394010
- Steven, A. H., Mobsby, D., & Curtotti, R. (2020). *Australian fisheries and aquaculture statistics 2018* (Fisheries Research and Development Corporation project 2019-093), Canberra: ABARES. Retrieved February 27, 2023 from, <https://www.frdc.com.au/project/2019-093>
- Shipan, C. R., & Volden, C. (2008). The mechanisms of policy diffusion. *American journal of political science*, 52(4), 840–857.
- Simmons, B. A., Dobbin, F., & Garrett, G. (2006). Introduction: The international diffusion of liberalism. *International organization*, 60(4), 781–810.
- Song, A. M., Cohen, P. J., Hanich, Q., Morrison, T. H., & Andrew, N. (2019). Multi-scale policy diffusion and translation in Pacific Island coastal fisheries. *Ocean & Coastal Management*, 168, 139–149. 10.1016/j.ocecoaman.2018.11.005
- Song, A. Y., Fabinyi, M., & Barclay, K. (2022). China's approach to global fisheries: power in the governance of anti-illegal, unreported and unregulated fishing. *Environmental Politics*, 1–21. 10.1080/09644016.2022.2087338
- Sumaila, U. R. (2019). A carding system as an approach to increasing the economic risk of engaging in IUU fishing? *Frontiers in Marine Science*, 6. 10.3389/fmars.2019.00034

- Thorpe, A., Hermansen, O., Pollard, I., Isaksen, J., Failler, P., & Touron-Gardic, G. (2022). Unpacking the tuna traceability mosaic—EU SFPAs and the tuna value chain. *Marine Policy*, *139*, 105037. 10.1016/j.marpol.2022.105037
- Wilhelm, M., Kadfak, A., Bhakoo, V., & Skattang, K. (2020). Private governance of human and labor rights in seafood supply chains—The case of the modern slavery crisis in Thailand. *Marine Policy*, *115*, 103833. 10.1016/j.marpol.2020.103833
- Wipatayotin, A. (2019). Prawit urges UN to get tough on illegal fishing. *Bangkok Post*. Retrieved February 21, 2023 from, <https://www.bangkokpost.com/thailand/general/1689872/prawit-urges-un-to-get-tough-on-illegal-fishing>.
- Wongrak, G., Hur, N., Pyo, I., & Kim, J. (2021). The Impact of the EU IUU Regulation on the Sustainability of the Thai Fishing Industry. *Sustainability*, *13*(12), 6814. 10.3390/su13126814