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- 61-80% foreign boat crews and/or foreign boat captains were employed in the 8 (eight) ships.

Based on these facts, the Plaintiff violates the provision in Article 35 A Verse (1) the Law Number 31 Year 2004 in conjunction with the Law Number 45 Year 2009 which states that “Fishing boats with an Indonesian flag which catch fish in the fishery regional management of the Republic of Indonesia are obligated to use captains and boats who are Indonesian nationals.”

- 11). Furthermore, based on the evaluation on the field conducted by the ANEV Team, other violations of law were also found and they were:
- a. Conducting illegal practice in manpower in the form of baseless salary reduction and torture to both Indonesian and foreign boat crews. Based on the result of the investigation in the field, there was a discrimination of salary between the foreign boat crews (Chinese) and the Indonesian national boat crews. The Chinese boat crews were paid approximately Rp6,000,000 per month while the Indonesian national boat crews were paid approximately Rp2,000,000 per month (their income might increase to Rp3,000,000 if they managed to catch a lot of fish since the boat crews received a bonus from the catch). The base salary of the Indonesian national boat crews was deducted without a clear reason (for example, in the salary slip, it was written the Provincial Minimum Wage was Rp2,040,000, but the salary received was around Rp1,700,000).

The boat crews’ salary payment which was lower than the Provincial Minimum Wage violates the provision in Article 185 Verse (1) the Law Number 13 Year 2003 on Manpower which carries a 1 (one) year minimum to 4 (four) maximum period of imprisonment and/or a penalty of minimum Rp100,000,000 (one hundred million rupiah) and maximum Rp400,000,000 (one hundred million rupiah).

As for the torture to the boat crews, the Plaintiff might be charged with Article 351 the Indonesian Criminal Code which carries a 2 (two) years and 8 (eight) months period of imprisonment, and if the act resulted in severe injuries, a 5 (five) years maximum period of imprisonment, or if the act resulted in death, 7 (seven) years maximum period of imprisonment.

Also, the Plaintiff was charged with Article 186 Verse (1) the Law Number 13 Year 2003 on Manpower which carries a 1 (one) month minimum to 4 (four) maximum period of imprisonment and/or a penalty of minimum Rp10,000,000 (ten million rupiah) and maximum Rp400,000,000 (one hundred million rupiah).

- b. Conducting an illegal trade of fuel in the middle of the ocean and an illegal trade of protected animals.

Based on the result of the investigation in the field, the Plaintiff was found conducting an illegal trade of fuel in the middle of the ocean.

Based on the investigation conducted by the ANEV Team, there are only two locations for the sale of fuel (diesel fuel, kerosene, and gasoline) in Wanam. The first is located in the middle of residential area which belong to PT. Kollepom Surya Lestari and PT. Abidin Syam. The two companies sell kerosene and diesel fuel for the residents' daily needs. The second is located near PT. Dwikarya Reksa Abadi with the name of UD. Pertiwi which sells fuel for boats.

According the confessions of the people in charge of the two places that sell fuel, the boats that belong to PT. Dwikarya Reksa Abadi (normally called "the steel boats" by the residents of Wanam) were never docked to fill up the fuel. A direct visit to the two places also showed that the availability of the fuel in these two places would not be able to meet the demand of the fuel made by hundreds of steel boats.

From further investigation, based on the confessions of several former boat crews, it was found that the fuel was often filled up in the middle of the ocean (the location was in Arafuru Ocean from Wanam towards Avona). The filling up of the fuel was done by closing in on a tanker boat and the fuel was distributed through a hose. Among the tanker boats were Taxung and Fuxing.

For the act of conducting an illegal trade of fuel in the middle of the ocean, the Plaintiff was charged with:

- Article 102 the Law Number 10 Year 1995 in conjunction with the Law Number 11 Year 2006 on Custom which carries an 8 (eight) years maximum period of imprisonment and a maximum penalty of Rp500,000,000 (five hundred million rupiah); and
- Article 103 the Law Number 10 Year 1995 in conjunction with the Law Number 11 Year 2006 on Custom which carries an 8 (eight) years maximum period of imprisonment and/or a minimum penalty of Rp100,000,000 (one hundred million rupiah) and a maximum penalty of Rp5,000,000,000 (five billion rupiah).

Aside from the boats that belong to the Plaintiff that were never docked to fill up the fuel (diesel fuel) based on the investigation and the chat with the residents (who sold birds, handicrafts from crocodile skin and the deer horns), the Chinese crews often bought goods such as crocodile skin, deer horns, and birds (white and red cockatoos) from the resident and brought on board of the export boats to China. The white cockatoos were sold with the price of Rp700,000 up to Rp1,300,000 depending on the age of the birds. The small crocodiles were made into a decoration (priced at Rp300,000 until Rp1,000,000) while the crocodile skin (taken from adult crocodiles) was sold at Rp35,000 per inch.

For the action of conducting an illegal trade of protected animals, Plaintiff was charged with Article 40 Verse (2) the Law Number 5 Year 1990 on Natural Resources and their Ecosystems Conservation which carries a 5 (five) years maximum period of imprisonment and a maximum penalty of Rp100,000,000 (one hundred million rupiah).

- c. Bribing the government officials during the performance of their duties.

Based on the result of investigation in the field, the company admitted that they gave a sum of Rp2,000,000 to the custom and immigration officers per person per month. The expenses borne from the arrival, accommodation and the return of these officials during their stay in Wanam were paid by the company.

The act of bribing the officials during the performance of their duties, the Plaintiff was charged with Article 5 the Law Number 31 Year 1999 in conjunction with the Law Number 20 Year 2001 on the Eradication of Corruption which carries a 1 (one) year minimum to a 5 (five) years maximum period of imprisonment and/or a minimum penalty of Rp50,000,000 (fifty million rupiah) and a maximum penalty of Rp250,000,000 (two hundred fifty million rupiah).

- 12). Based on the above consideration on the violations and crimes committed by the Plaintiff, it is proven that the Plaintiff has conducted an illegal fishing practice in the fishery regional management of the Republic of Indonesia where this counts as a disobedience to the policy of the Indonesian Government which is currently strictly enforcing its legal authorities in the sea and combating the perpetrators of illegal fishing in its serious efforts to achieve a sovereign and independent archipelagic nation through the management of sustainable fishery and maritime natural resources and also as a part of the implementation of the current President of Indonesia's NAWACITA. Therefore, it is reasonable and relevant if a strong punishment was given to the parties conducting illegal fishing in the fishery regional management of the Republic of Indonesia so that they no longer exploit the fishery resources in the Indonesian regions.
- 13). Aside from explaining the substance of the Administrative Court Decision according to the applicable laws and regulations, the Defendant rejected the points of objection made by the Plaintiff as follows:
 - a. that the Defendant rejected/disagreed with the points of the Plaintiff that state that the violations found as the result of analysis and evaluation should have been proven first by the judicial institutions through the process of examination and investigation by the State Apparatus with the authority to state that the Plaintiff was lawfully and convincingly found guilty of these violations.

- g. interviewing several former crews who once worked in the boat who explained that many fish were brought down in the middle of the ocean, that the boats were docked at the port, but the number of fish had been reduced since after catching the fish, the fish with high value such as dolphins, tortoises, sharks, were immediately separated in the boat's cargo hold. The number of Chinese boat crews was three or four times more than the Indonesian boat crews, the Provincial Minimum Wage of the Indonesian crews was Rp2,040,000 + bonus for the catch with a total of Rp2,700,000 take home pay. The Armada crews (the Chinese crews) like to deduct salary, even though the Indonesian crews do not owe them any money, to Rp1,700,000, but they could not complain. The Provincial Minimum Wage of the Chinese crews was a full Rp6-7 million. The task of the Chinese captain was to steer the boats and the fishing master was to lower down the net;
- h. the interview with an Avona 25 boat crew revealed that there was once a deep cut on his forehead after he was hit by a piece of steel by one of the Chinese crews who told him to work;
- i. In Wanam, there are 2 Pertamina agents selling gasoline and kerosene. The company explained that the 102 units of steel boat with an individual weight of 250 gross ton always bought their fuel in Merauke, but until the Anev Team returned to Jakarta, the accounting section of the company did not submit the receipts of the fuel purchase;
- j. The senior officials provided information that the Minister of Agriculture of the People's Republic of China wrote a letter to the Defendant informing that there were 343 ships with an Indonesian flag which are registered in China and after checking the ship documents, the boats that belong to the Plaintiff's company had double registration;

- c. The compliance of the Boats to the Obligations during the Fishing Business Activities: compliance verification for the completion of obligations by the owner of the boats which were formerly owned by a foreign entity before the catch, during the catch, when the fish caught are brought to the shore, and after the fish caught are brought to the shore. The sub-aspects assessed are:
- i. Obligations Related to the Boat's Captain and Crews;
 - ii. Obligations Related to the Adherence to the Movement of the Boat (VMS Activation);
 - iii. Obligations Related to the Physical Conditions of the Boats and Fishing Equipment;
 - iv. Obligations Related to the Fish Brought on Shore;
 - v. Obligations Related to the Fish Caught, and
- d. The boats were once used to commit fishing crimes; It is categorized as a violation related to the operational compliance if:
1. The status of the boat is illegal. Among which are the boats are listed in another country beside Indonesia, the flag of another country was found on board of the boat, the legality of the deletion certificate cannot be proven, and the legality of the boat procurement cannot be proven;
 2. Employing foreign captains and boat crews; the boats did not install VMS or never activated its VMS during the valid Fishing Permit/Fishing Boat Permit period;
 3. The boats conducted illegal transshipment;
 4. The boats violated the fishing territorial area line (catching fish outside their territorial sea);
 5. The physical condition of the boats is not in compliance with the Fishing Permit Requirement such as the boats conducted a mark down and used fishing equipment which is not according to the Fishing Permit Regulation (based on the findings during the field verification);
 6. The boats are indicated to have committed major crimes among which are forced labor and human trafficking practice (based on the findings during the field verification and interview with the company);
 7. The company did not form a relationship with or work in partner with any Fish Processing Units;

- m. visiting the employees' accommodation. All furniture and electronic equipment were made in China and inside the garbage bin, there were many liquor bottles;
- n. The second day, the team met the residents who showed us a cage located far behind the company's warehouse filled with white cockatoos, big crocodiles whose skin has been sliced and dried, and few small live crocodiles. The photos were taken by the witness used as the Evidence T-138. The residents explained that the endangered animals would be brought to the Chinese export boats which would dock in Fuzhou;
- o. The person whom the witness met was the boat's guard, not the person who normally went to sea. Those who sailed with the boats were mostly sent home since the moratorium was enacted.
- p. Checking the 4 boats which were docked at the port and found that the VMS equipment has been unplugged and stored in the office, a harpoon and the engine number that matched:
- q. interviewing several former crews who once worked in the boat who explained that many fish were brought down in the middle of the ocean, that the boats were docked at the port, but the number of fish had been reduced since after catching the fish, the fish with high value such as dolphins, tortoises, sharks, were immediately separated in the boat's cargo hold. The number of Chinese boat crews was three or four times more than the Indonesian boat crews, the Provincial Minimum Wage of the Indonesian crews was Rp2,040,000 + bonus for the catch with a total of Rp2,700,000 take home pay. The Armada crews (the Chinese crews) like to deduct salary, even though the Indonesian crews do not owe them any money, to Rp1,700,000, but they could not complain. The Provincial Minimum Wage of the Chinese crews was a full Rp6-7 million. The task of the Chinese captain was to steer the boats and the fishing master was to lower down the net;
- r. the interview with an Avona 25 boat crew revealed that there was once a deep cut on his forehead after he was hit by a piece of steel by one of the Chinese crews who told him to work;
- s. In Wanam, there are 2 Pertamina agents selling gasoline and kerosene. The company explained that the 102 units of steel boat with an individual weight of 250 gross ton always bought their fuel in Merauke, but until the Anev Team returned to Jakarta, the accounting section of the company did not submit the receipts of the fuel purchase;
- t. The senior officials provided information that the Minister of Agriculture of the People's Republic of China wrote a letter to the Defendant informing that there were 343 ships with Indonesian flag which are registered in China and after checking the ship documents, the boats that belong to the Plaintiff's company had double registration;

Considering that the Panel of Judges quoted several testimonies of the entire factual witness brought to the courts, who are:

1. **Janus Kudumborbir** (the government official of Wogikel Wanam village) who mainly explained that:

- The village in Wanam had existed for a long time and there were residents in the area before the company was established and the electricity was only enough for the residential area surrounding the company;
- He knew that the exports boats from China carried 9 types of staple food ingredients, engine spare parts, alcoholic drinks, cement, sand, etc.
- He had never seen a fuel tanker boat that belongs to the company and the uniquely Papuan animals were always brought on board of the export boats to China;
- The company employed Indonesian nationals, but there were only 10 native Papuans;
- He went to the sea once and saw with his own eyes a troll boat that belongs to the company and most of the fish were taken to an export boat docked at the sea. The storage was used to store a small portion of the fish caught and the fish from the fishermen with wooden boats;
- He once saw a shark being pulled by a fishing net until the boat reached the shore and the shark was then cut up into small pieces by the workers of the company;
- Together with the Sub-District Regional Leaders Consultative Forum, the Head of the Resort Police, Military Regional Commander, the Navy Post and the Indonesian Water and Space Post and prominent public figures, he saw the place where the Papuan birds were kept and caged behind the processing area of the company and the Sub-District Regional Leaders Consultative Forum gave no sanction to the company. We were told by the company that the birds would be brought to China.

2. Dominggus Payer (a former Human Resource Staff of the Plaintiff's company)

- He knows that on land, the foreigners stayed in a very nice accommodation on the first, second and third floor of the office and the Indonesian employees lived in the less-than-adequate residential area formerly owned by the employees of PT Jayanthi (which has been taken over by the Plaintiff);
- He knows that in the troll boats, there were 2 Indonesian boat crews - one crew and one captain - whose main duty were to act as a shadow crew and captain when the boat ran into the Marine patrol at sea until after the patrol left, but all boat operations were the responsibility of the Chinese crew;
- He knows that the Head of the Boat Armada once hit an Indonesian crew in his office, but the staff as a witness could not forbid him from doing so.

3. The factual witness, Octavianus Saukoly:

- He admitted to being the shadow captain on board of PT Dwikarya 25 boat and began working from 4 August 2008 until 24 August 2014. He admitted to being a shadow captain whose daily main duties were to sign for departure, to work in the boat's hold, and to lift the fishing net. But if at sea, the marine patrol boat, KRI Keris, came, he was called to stand in as the captain until the boat left.

- The catch was never put in the cold storage and the content of the cold storage was the fish that were caught by the fishermen with the wooden boats.
 - The company's boats never unloaded the fish in the port. If there were any, it was mostly mackerel;
 - He was once tortured for standing up to his Indonesian co-worker who was gang-beaten by the Chinese crews since they were the only two Indonesian crews on board the boat. He had reported this to the Head of Armada, but there was no follow-up action;
 - The boats never filled up their fuel on land. All were done at sea. Normally a Cambodian tanker boat with a Panama's flag came from China. The tanked boat needed to be contacted first before they came. The Avona 9 Chinese crews handled all matters with the Chinese tanker boats. The Indonesian crews were never informed about this matter. The witnesses took photographs with his cell phone which becomes Evidence T-135 which shows the transshipment activities and Evidence T-136 and Evidence T-137 that show the fuel being filled up at sea;
 - That the Plaintiff rejected the witness in the court since Avona 9 Boat is not included in ANEV.
5. The factual witness, **Mezak Lewier** (The Operational Manager of the Company)
- He was not aware of the incident of torture of the Indonesian crews on the boat while at sea.