



Issuing Licence Procedure in Fixing Fisherman Fish Aggregating Device (FAD) (A Case Study in East Aceh District)

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Abstract

The Minister of Maritime Affairs and Fisheries of the Republic of Indonesia issued Minister of Maritime Affairs and Fisheries Regulation No. 26/Permen-KP/2014 in the context of controlling large FADs owned by entrepreneurs installed in the middle of the sea. This control needs to be carried out because these FADs are seen to be detrimental to traditional fishermen. Due to the existence of large FADs, large fish do not want to swim to the seashore, so traditional fishermen have to go further out to sea to catch bigger fish. Therefore, according to Minister of Maritime Affairs and Fisheries Regulation No. 26/Permen-KP/2014, fishing by fishermen using FAD fishing gear must have a permit based on KKP Ministerial Regulation Number 18 of 2021 regarding the placement of FADs. However, fishermen are still found who do not have permission (illegally) to place FADs, then these FADs have an impact on the environment and their ownership is unclear.

Keywords: *Licence Procedure; Fish Aggregating Device (FAD); Fishermen*

Introduction

FADs are fish collecting tools that use various shapes and types of binders/attractors made of solid objects, which function to tie fish together so they can gather and are used to increase the efficiency and effectiveness of fishing operations. Actually, one of the tools in fishing is FADs. Therefore, the use of FADs as a fishing tool is highly recommended, because FADs are made naturally and are in the form of artificial coral which is made in such a way as to be a fish collecting tool or as a fish house on the seabed.¹ Regarding the shape of the FAD, it is usually made to resemble natural coral, so that the fish feel

¹ Rumpon, Aktivitas Penangkapan Ikan yang “Manusiawi”, <https://www.usu.ac.id/id/pengabdian-masyarakat/rumpon-aktivitas-penangkapan-ikan-yang-manusiawi->, accessed Juni 23, 2023.

like they have found a new home. So when fish gather in large numbers in these FADs, fishermen will catch as many fish as possible.²

Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia (Permen KKP) No. 26/Permen-KP/2014 wants to target or control large FADs owned by entrepreneurs installed in the middle of the sea. This is because these FADs are seen to be detrimental to traditional fishermen. As a result of these large FADs, large fish do not want to swim to the edge of the sea, so traditional fishermen have to go further out to sea to catch bigger fish.

Installing FADs is one of the government's efforts to help improve the quality and quantity of fish catches for fishermen based on regulations. So that it can increase the income of fishing communities, especially small fishermen (traditional fishermen).

If viewed from a legal perspective, Article 1 number 1 of Minister of Maritime Affairs and Fisheries Regulation No. 26/Permen-KP/2014 defines FADs as fish collecting tools that use various shapes and types of binders/attractors made from solid objects, which function to attract fish to gather, which are used to increase the efficiency and effectiveness of fishing operations.

Article 7 KKP Ministerial Regulation No. 26/Permen-KP/2014 states that:

1. Every person who installs FADs in the Republic of Indonesia State Fisheries Management Area (WPP-NRI) is required to have a FAD Installation Permit (SIPR).
2. The validity period of the SIPR as referred to in paragraph (1) is until the end of the validity period of the Fishing Permit (SIPI).
3. Every fishing vessel operating a FAD is required to carry an original SIPR.

There are 3 parties who are given the authority to issue SIPR, namely the Director General of Marine Fisheries, the Governor or the Regent/Mayor, who are differentiated based on the fishing route.

Installing FADs is one of the government's efforts to help improve the quality and quantity of fish catches for fishermen based on regulations. So that it can increase the income of the fishing community. Idi Rayeuk subdistrict is one of the areas that has coastal waters in East Aceh district. This clearly holds enormous potential for the fisheries sector.

The total area of the district of East Aceh Regency has an area of 6,040.60 Km². Administratively, East Aceh Regency consists of 24 sub-districts, 59 Mukim and 513 Gampongs. More than half or 71.34% is a coastal area with natural potential suitable for business fishery. This is also supported by a very strategic geographical location which is located on the east coast of the island of Sumatra, and the area is also directly opposite the international shipping lane (Melacca Strait) bordering Malaysia, which is one of the world trade centers.

In Idi Rayeuk sub-district, there are several people who work as fishermen who install sea FADs. FADs are fish collecting tools that use various shapes and types of binders/attractors made from solid objects, which serve to attract fish to gather which are used to increase the efficiency and effectiveness of fishing operations. The types of sea FAD catches consist of small fish, red shrimp, white shrimp, fine shrimp, baby fish, crabs and sometimes large fish.

Based on the Regulation of the Minister of Maritime Affairs and Fisheries, every person who installs FADs at WPP-NRI is required to have a SIPR (Permit to Install FADs). The validity period of the SIPR is until the end of the validity period of the SIPI (Fishing Permit). A fishing business permit, hereinafter abbreviated as SIUP, is a written permit that a fishing company must have to carry out a

² Sahabat Laut Lestari, Manfaat Rumpon dan Fungsinya Bagi Perikanan, <https://sahabatlautlestari.com/manfaat-rumpon-dan-fungsinya-bagi-perikanan/>, accessed Juni 20, 2023.

fishing business using the production facilities listed in the permit. Every fishing vessel operating a FAD is required to carry an original SIPR.

Based on the results of observations and interviews conducted by researchers, there are several problems in installing FADs in the Idi Rayeuk sub-district, East Aceh Regency, including: 1) There are still fishermen who do not have fishing business permits and permits to install FADs, 2) There are still marine FADs those installed are not in accordance with the provisions of the Minister of Fisheries of the Republic of Indonesia, 3) The income of small fishing communities is reduced because sea FADs are installed not far from the coast and 4) There are no firm sanctions from the East Aceh District Maritime Affairs and Fisheries Service for any problems in installing sea FADs.

Research Methods

This research was conducted using empirical juridical research methods. This research examines the applicable legal provisions and what happens in reality in society. Data collection was carried out through interviews with informants related to this research and with respondents who were directly involved in this research topic. Research data sources were obtained from legal materials in the form of primary legal materials and secondary legal materials. The research location is the Legal Area of East Aceh Regency. Furthermore, the data obtained through interviews with respondents and informants was analyzed qualitatively, conducting studies or research on the results of data processing assisted by theories to analyze it.

Result and Discussion

1. Installation of FADs by Fishermen in East Aceh Regency in Accordance with Applicable Laws and Regulations

FADs are fishing tools that have been regulated in the Minister of Maritime Affairs and Fisheries Regulation (Permen KKP) Number 18 of 2021 concerning the Placement of Fishing Equipment and Fishing Aids in the Indonesian State Fisheries Management Area and the High Seas and the Arrangement of Fishing Andons. The KKP Ministerial Regulation regulates ownership of FADs, processing permits and placement of FADs over long distances as well as procedures for placing FADs.

Based on Article 18 of Minister of Maritime Affairs and Fisheries Regulation Number 18 of 2021, it is stated that "the Minister and the Governor, in accordance with their authority, determine the allocation of FADs, the determination of FADs is carried out by a study by the body carrying out tasks in the field of marine and fisheries research, which is then the results of the study are used as the issuance of a SIPR for WPP-NRI permanent FADs in Marine Waters".

The KP Ministerial Regulation is a technical guideline for implementation in the field and gives authority to the Regional Maritime Affairs and Fisheries Service (DKP) to be able to regulate permits for placing FADs by fishermen. The aim of granting permit authority to DKP is to indirectly have a positive impact on the region, namely regional income from permits carried out by fishermen to place FADs in the sea, then the government sees that regional governments have autonomous authority to manage the sea based on statutory regulations. The Regional Government better understands the situation and interests of the fishing community, therefore the Central Government through regulations gives the authority to the Regional Government to provide practical, efficient and effective services to the community who apply for permits to place FADs at sea.

Based on the provisions of KP Ministerial Regulation Number 18 of 2021, it is emphasized that every fisherman who places FADs must have a SIPR and the placement of FADs in the Republic of

Indonesia State Fisheries Management Area (WPP-NRI) is carried out with a distance between FADs of at least 10 nautical miles, the placement is in accordance with the fishing area. fish and not placed in marine conservation areas, not placed in Indonesian archipelagic sea lanes, marine biota migration lanes and shipping lanes that disturb sailing ships.

These two regulations regulate fishing gear, namely FADs, therefore fishermen who use FADs to catch fish are required to obtain a permit, if there is no permit to place FADs in the sea then the fisherman has placed FADs illegally (without a permit). In this case, the government and law enforcers can take firm action against these fishermen because they have caught fish illegally. The use of FADs can help fishermen in several ways, such as reducing fuel consumption, speeding up the determination of fishing areas, and shortening the total number of days of fishing operations. Overall, the use of FADs can reduce operational costs and increase catches per trip due to success in obtaining fish.

The method of fishing with the help of FADs installed in sea waters has been proven to be very helpful in saving fuel by up to 30% and increasing the fish caught by fishermen. FADs are a form of artificial fish habitat made from various materials, such as coconut tree leaves, tree branches, bamboo, concrete blocks, used tires or from other materials that are immersed in the water column and are permanent or can be moved. The method of using FADs can be easily applied by fishermen because the materials for making artificial houses for these fish are relatively cheap and easy for fishermen to find. Apart from that, by installing these FADs, fishermen will benefit by having clear and fixed fishing areas, so that fuel needs will be easier to predict and more economical.

Regulation issued by the Ministry of Maritime Affairs and Fisheries (KP) number 26/Kpts/2014 (KKP 2014) concerning FADs, which was later updated with KP Ministerial Regulation number 18/2021 (KKP 2021) concerning the placement of fishing equipment and fishing aids in the fisheries management area of the Republic of Indonesia and the high seas as well as the arrangement of fishing andons, require a request for permission to install FADs which includes, among other things, the installation time, number and coordinates of the FADs' position.

KP Ministerial Regulation No.26/PERMEN/ 2016 concerning FADs. Some important things stated in the regulations regarding FADs include:

1. Every person who installs FADs in WPP-NRI is required to have a FAD Installation Permit (SIPR) whose validity period is the same as a Fishing Permit (SIPI);
2. the installation of FADs does not disrupt shipping lanes and does not zigzag with a minimum distance of 10 nautical miles between FADs;
3. As a FAD attractor, materials that are biologically decomposable are used;
4. Each FAD has an identification tag (installation number) and reflector installed;
5. Each fishing vessel is only permitted to install a maximum of 3 FAD units.

Installation of FADs can be carried out in high seas waters (outside the Indonesian EEZ) of course provided that they must be registered with the Regional Fisheries Management Organization (RFMO) Secretariat. Even though there are already provisions on the rules for installing FADs as above, the reality in the field is that almost all of these rules are not obeyed by fishermen installing FADs except for the use of attractors where currently most fishermen installing FADs use natural materials in the form of coconut leaves or nipa palms. The low level of compliance with these rules is due to fishermen's lack of understanding about the negative impacts of FADs if they are not managed, the low level of supervision, and the absence of sanctions if fishermen violate the above rules even though there are written administrative sanctions in the form of revocation of the SIPR. Administrative sanctions are

usually³: (1) First Warning, namely providing a written warning for the violation committed; (2) Second warning, namely if within a certain period of days the first warning is not implemented; and (3) The third warning is in the form of revocation of the SIPR or dismantling of the FAD.

Thus, breakthrough measures are needed so that fishermen who install and use FADs can report their FADs (a kind of re-registration or "FAD amnesty") so that the number and position of installed FADs can be recorded accurately. Apart from that, they also ask the government for a management permit,⁴ namely a FAD management permit.

The results of interviews with capital owners showed that they were not aware of these regulations because there was no socialization carried out by the fisheries department. It turned out that no one among the capital owners had a FAD installation permit (SIPR). Follow-up interviews revealed that they had never experienced any difficulties or efforts to comply with the law from authorized officials because of this. The sanction imposed for violating the rules is the dismantling of the installed FADs, but apparently there are no strict sanctions implemented by the authorities. The lack of human resources, budget and ship facilities for monitoring activities means that the monitoring function does not run optimally.

Observations and interviews conducted show that there are no informal rules, collective agreements or specific management practices among stakeholders in the FAD fishery at Idi Rayeuk port. And from the results of interviews with several financiers and ship handlers, there were several FADs that did not have permits, and the installation of FADs was done as they knew it, they did not know the rules and procedures for installing FADs properly because there was no comprehensive socialization from the fisheries service regarding permission to install FADs and procedures for installing them.

Data and information on the number and position of FADs installed is very difficult to obtain, both officially from the Government (KKP, Department of KP), entrepreneurs and fishermen who have been using FADs. The absence of accurate data and information regarding FADs means that their existence is not easy to control. FADs which are located in border waters (EEZ-I) in their operations are generally associated with purse seine fishing gear. Long before the enactment of Ministerial Regulation No. 26/Men-KP/2014 concerning FADs up to now, the installation of FADs as fishing aids is not registered, and is not equipped with gear markings of ownership, so it is difficult to trace if FADs are no longer used/neglected, lost or deliberately thrown away (abandoned). , loss or otherwise discards gear and FAD). FAD operations are also not accompanied by reports regarding good catches.

Due to the ease of catching fish around FADs, all forms of capture fisheries efforts are directed towards using FADs in their operations. Increasing efforts to use FADs for various types of capture fisheries businesses have resulted in their numbers increasing and tending to get out of control. On the other hand, the benefits of using FADs which have been proven to increase fishing efficiency, in reality do not provide a real contribution to state income in the fisheries sector, due to non-compliance with registration rules and reporting systems for catches and operations.

The installation of FADs in the East Aceh region is not in accordance with Ministerial Decree No: 26/PERMEN/2014 concerning FADs which results in ecological traps in the movement of fish where the distance of installing FADs must not be less than 10 miles by not installing them in a zig zag manner so

³ Putri Ramadhani, Suhaimi, Penerapan Sanksi Administratif Terhadap Pengelola Warung Internet Yang Membiarkan Akses Situs Pornografi Melalui Internet di Kota Banda Aceh, *Jurnal Ilmiah Mahasiswa Bidang Hukum Kenegaraan*, Vol. 3(1) Februari 2019, pp. 120-128.

⁴ Ema Syithah, Suhaimi, Taqwaddin, Kebijakan Pemerintah Aceh Dalam Penegakan Hukum Kehutanan, *Jurnal Ilmu Hukum Pascasarjana Universitas Syiah Kuala*, Volume 4, No.1, November 2016, pp. 29-33.

as to provide space or gaps for the movement of some fish to migrate. This is important, because FADs can also be used for fish resource conservation purposes.⁵

Attractor materials for FADs should be used from materials that are easily biodegradable, such as coconut leaves or nipa palms, so that the remaining attractor material does not result in ensnaring fish and protected marine biota such as turtles. If the attractor material is used as used net material, there is a chance that some marine biota will become entangled in the remains of the net used as the attractor material and the net material turns out to be very difficult to biodegrade in the sea and gives rise to a new issue as a ghost fishery or known as "ghost fishing".

FAD capital owners are aware of government regulations but choose not to comply with formal regulations as issued by the Ministry of Maritime Affairs and Fisheries, both in terms of the law and the technical aspects of installing FADs at sea. This non-compliance is indicated to be caused by weak law enforcement and a lack of awareness among capital owners of the importance of having a permit to install FADs.

Until now, the installation of FADs in the East Aceh region as an aid to fishing has not followed the established rules, with many FADs being installed too close together at a distance of less than 10 miles. This causes a high density of installed FADs which can give rise to conflicts between fishermen and can disrupt the flow of small tuna fish.

- (1) Provisions for the installation, use and operation of FADs must refer to Minister of Maritime Affairs and Fisheries Regulation No: 26/PERMEN/2014 and regional and international tuna resource management laws and regulations. To enforce this compliance, it is necessary to re-register installed FADs so that the number and position of currently installed FADs is known.
- (2) FADs are recommended to be used as a tuna fishing aid for hand fishing equipment (hooks and line), troll line and huhate (pole and line).
- (3) FADs can be used as a fishing aid in large pelagic purse seines with a top rope length of d" 700 m for vessels measuring 10-30 GT operated on fishing lanes II and III as well as purse seines measuring d" 1500 m for vessels measuring > 30 GT in fishing route III in WPP-NRI waters 572, 573, 714, 716 and 717. Implementation must be carried out with strict supervision and periodic evaluation, especially regarding the number and size of fish caught.
- (4) As a measure to prevent illegal practices, it is recommended that FADs not be installed in border waters and FADs that have been installed specifically in border areas need to be controlled through special actions/operations.
- (5) Attractor materials for FADs should use natural materials that are easily biodegradable (biodegradable) such as coconut or nipah leaves so that they do not give rise to new problems in fisheries such as ghost fishing.

Aceh Province's marine resources hold enormous potential,⁶ this potential needs to be maintained and monitored, Aceh's marine resources provide the potential for development of the marine economy, especially fishing communities, therefore it is necessary to safeguard Aceh's waters and marine resources. "The fishing method using FADs has been proven to be very helpful for fishermen and can save fuel by up to 30% and can increase fish catches for fishermen".⁷ Based on the results of research conducted by

⁵ M. Fedi A. Sondita, Sebuah Perspektif: Rumpon Sebagai Alat Pengelolaan Sumberdaya Ikan, <https://repository.ipb.ac.id/bitstream/handle/123456789/53720/Sebuah%20Perspektif...%20Buku%20II.pdf;jsessionid=CF5EF87046659215EE58FA5E06FE8E5D?sequence=4>, accessed Juli 12, 2023.

⁶ Dinas Kelautan dan Perikanan Aceh, <https://uptdpkkpd.acehprov.go.id/halaman/profil-kawasan-aceh-besar>, accessed Agustus 28, 2023.

⁷ Universitas Bung Hatta, Rumpon Menetap, Mampu Atasi Masalah Nelayan, <https://bunghatta.ac.id/artikel-220-rumpon-menetap-mampu-atasi-masalah-nelayan.html>, accessed Agustus 15, 2023.

Ajeng Dyah Ayu Ningrum, there is a significant difference in income between fishermen who use FADs and fishermen who do not use FADs and this is clearly visible among fishermen.⁸

Efforts to regulate the use of FADs so that they do not cause negative impacts have been carried out by the Ministry of Maritime Affairs and Fisheries through Minister of Maritime Affairs and Fisheries Regulation number 26/Kpts/2014 (KKP 2014) concerning FADs. This regulation regulates the types of FADs, the issuance of a FAD Installation Permit (SIPR), regulates the method of installing and limiting FADs, regulates the identification tags that must be attached, and also regulates guidance and supervision in the use of FADs in Indonesian waters. Regulations on the use of FADs have been updated several times and the last time this was done through the Minister of Maritime Affairs and Fisheries Regulation number 18/2021 (KKP 2021) concerning the placement of fishing equipment and fishing aids in the fisheries management areas of the Republic of Indonesia and the high seas as well as the arrangement of fishing boats.

The procedures and mechanisms for installing FADs have indeed been regulated through the ministerial regulations above, but how they are actually implemented in the field is a different matter. Are these regulations carried out, followed and obeyed or are they not implemented at all? Ostrom (1990), stated that human behavior in the process of utilizing fisheries resources requires control through regulations.

Conclusion

The provisions for the rules for installing FADs have been regulated in legislation, but the reality in the field is that almost all of these rules are not obeyed by fishermen who install FADs. Most fishermen in East Aceh Regency use natural materials in the form of coconut or nipah leaves to install FADs. The low level of compliance with these rules is due to fishermen's lack of understanding about the negative impacts of FADs if they are not managed, the low level of supervision, and the absence of sanctions if fishermen violate the above rules even though there are written administrative sanctions in the form of revocation of the SIPR.

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⁸ Ajeng Dyah Ayu Ningrum, Faktor-faktor yang Mempengaruhi Penggunaan Rumpon dan Perbedaan Pendapatan Nelayan Sebelum dan Sesudah Penggunaan Rumpon di Kecamatan Puger Kabupaten Jember, *Skripsi*, Fakultas Pertanian Universitas Jember, <https://repository.unej.ac.id/handle/123456789/99217>, accessed August 28, 2023.

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