

CHAPTER I

INTRODUCTION

1.1 Background

In the light of the advancement and development of the world, states have been cooperating to obtain more significant results and achievements. The cooperation is being carried out due to their collective interest in further putting an end to one event. It could be due to an alarming issue that needs to be solved by the global world or is usually referred to as a global issue. Through global issues, one could also be ascertained global governance. Global governance is a deliberate order formed by institutions, processes, norms, formal agreements, and informal mechanisms that govern action for the common good.¹ Global governance could come in many forms, such as International Governmental Organizations (IGOs), Public-Private Partnerships (PPPs), Private governance, and tripartite governance mechanisms.² One of the ideal tools of global governance that could be used is international law which is a set of rules, and that is regulated to give a public order between nations.

Implementing international law as a set of rules outside of the national law is essential. States need to gain recognition within the international community, which means that states need to declare that it fulfills the conditions of statehood as

¹ Benedict. K, International Encyclopedia of the Social & Behavioral Sciences (MacArthur Foundation, 2001): 6232, <https://doi.org/10.1016/B0-08-043076-7/04499-5> (accessed on April 25, 2022).

² Jinseop Jang, Jason McSparren, and Yuliya Rashchupkina, "Global governance: present and future," *Palgrave Communications* 2, no. 1 (2016): xx, doi:10.1057/palcomms.2015.45. (accessed on April 27, 2022).

required by international law.³ With the recognition of international law, states can comprehensively conduct international activities, for instance, international trade, international conventions, international treaties, etc. Later, when a dispute arises from the above-mentioned international activities, international law will play an important role in settling the dispute between two or more disputed states. In this case, the dispute does not include solely direct towards disputed states in international activities. Still, it could also be directed towards the private entities dealing with the disputed relationship between them in one country and another party in a different country than theirs. When global governance is being carried out, international law will follow the rules to be met.

With that context being defined, one could quickly notice and see the existence of international law. For instance, they establish international conventions where states agree to discuss a particular issue and collaborate to provide solutions and outcomes. This research has provided the example of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES was established in 1973 to ensure that international trade in wild animals and plant specimens does not threaten the species' survival.⁴ When states agree to be legally bound by the CITES, they are referred to as Parties. Parties must meet all the requirements demanded by CITES, such as adopting domestic legislation to ensure that CITES is implemented at the national level.⁵

³ John P. Bullington and H. Lauterpacht, "Private Law Sources and Analogies of International Law," *The Yale Law Journal* 37, no. 4 (1928): 385, doi:10.2307/790297. (accessed on April 25, 2022).

⁴ CITES, "What is CITES?", accessed March 5, 2023, <https://cites.org/eng/disc/what.php>. (accessed on April 25, 2022).

⁵ CITES, "What is CITES?"

The European Union (EU) member states have long ratified the CITES. However, the EU has only become the party to the CITES on 8th July 2015, after the CITES allowed regional economic integration to become their party.⁶ As the EU has ratified CITES, they also have to apply what is demanded in the convention to their domestic law. Ironically, as a party of CITES that has fulfilled the adoption of the CITES framework to its member states' domestic law, the EU and other states still conduct illegal international trade over flora and fauna. For instance, the shark trade will be discussed explicitly in this research. Sharks were first included in Appendix II of CITES in February 2003, after the Conference of the Parties to CITES decided at its 12th meeting.⁷ With that fact, we can see that shark is species that are not necessarily threatened with extinction, but in which trade must be controlled to avoid utilization incompatible with their survival.⁸

However, while the world has made significant progress in managing sharks and rays in recent years, the actions taken have not been enough. Shark populations continue to decline rapidly worldwide. More than 50% of shark species are threatened or near-threatened with extinction, and pelagic sharks (species of sharks found on the high seas) have declined more than 70% in only 50 years.⁹ Through the findings of WWF, since 2000, shark and ray meat imports have made up 17.3

⁶ European Commission, "Wildlife Trade," Environment, accessed March 5, 2023, https://ec.europa.eu/environment/cites/gaborone_en.html. (accessed on April 27, 2022).

⁷ CITES, "Sharks and Manta Rays", last modified January 12, 2021, <https://cites.org/eng/prog/shark/more.php>. (accessed on April 27, 2022).

⁸ CITES, "How CITES Works", accessed March 5, 2023, <https://cites.org/eng/disc/how.php#:~:text=Appendix%20II%20includes%20s> (accessed on April 27, 2022).

⁹ S. Shea, B. Slee, and M. O'Toole, *The EU's Role in the Global Shark Trade*, (The Netherlands: Stichting IFAW (International Fund for Animal Welfare), 2022), <https://www.ifaw.org/resources/eu-role-global-shark-trade>. (accessed on April 27, 2022).

percent of world trade. EU exports and imports contribute to around 22% of worldwide shark meat trading.¹⁰ Moreover, according to the finding of International Fund for Animal Welfare (IFAW), the top five EU member state destinations of shark meat exports within the period of 2003-2020 are Italy with 4245 metric tons total reported trade, Spain with 680 metric tons total reported trade, Greece with 674 metric tons total reported trade, Bulgaria with 560 metric tons total reported trade, and Cyprus with 91 metric tons total reported trade.¹¹ Meanwhile, the top five reported EU member state of imports come from Spain with 51,795.23 metric tons total reported trade, Portugal with 642.22 metric tons total reported trade, Netherlands with 620.70 metric tons total reported trade, France with 294,57 metric tons total reported trade, and Italy with 24.88 metric tons total reported trade.¹² Thus, looking at the EU's misconduct upon the ratification of CITES, this research believes that it is essential to conduct further research on analyzing why the EU decided to take that action. Moreover, this research's boundary is only to assess the instrument of international law, which is used to further analyze the practices of global governance through the angle of the EU shark trade, which has also ratified CITES. But no more than going to a more profound analysis of the implementation of shark trade in the EU with the instrument of international law.

¹⁰ WWF, "EU Accounts for 22% of Global Trade in Shark Meat," WWF, last modified July 21, 2021, <https://www.wwf.eu/?4023241%2FEU-accounts-for-22-of-global-trade-in-shark-meat>. (accessed on February 23, 2022).

¹¹ S. Shea, B. Slee, and M. O'Toole, *The EU's Role in the Global Shark Trade*, (The Netherlands: Stichting IFAW (International Fund for Animal Welfare), 2022), <https://www.ifaw.org/resources/eu-role-global-shark-trade>. (accessed on April 27, 2022).

¹² S. Shea, B. Slee, and M. O'Toole, *The EU's Role in the Global Shark Trade*

1.2 Research Question

Acknowledging the rising of alarming global issues that happened, the existence of global governance has genuinely helped to facilitate and provide a platform for states to take action and provide solutions to work collectively in tackling the issues. Thus, this research will focus on assessing the instruments of international law, which will be used to analyze the practices of global governance within CITES and shark trade in the EU. In accordance with the previously described background, this research aims to answer the following research questions:

How does the shark trade still occur in the European Union despite having ratified the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)?

1.3 Research Objective

Following the established research questions, the objectives of this research are as follows:

To discover the implementation of international law in the European Union, specifically the monism and dualism system that is further applied in the case of ratification of CITES within EU's shark trade.

1.4 Research Significance

Looking upon the harm that is made by the shark trade activities, this research hopes that all countries worldwide could legally ban international endangered species trade. Analyzing the shark trade from an EU perspective, as a party of CITES. This

research found out that the EU still misconducts the ratification and executes shark trade activities. This research that will comprehend the analysis upon the danger of shark trade and discover upon the EU's action will serve as a source of knowledge for future studies on the subject at hand.

1.5 Structure of Thesis

The first chapter of the thesis will act as the grounds of the thesis, it will focus on discussing the background of the issue, addressing the research questions, and finding the research objectives along with its applicability to the study.

The second chapter is divided into two sections, namely the literature review and the theory and concepts. Beginning with the literature review will discuss and explore the past findings of the study, which includes Shark Trade in the EU and Implementation of International Law in EU. Continued with the next part that will discuss the theory and concepts used in this thesis.

The third chapter is the methodology of the thesis, this section aims to provide further information regarding the research method, research approach, data collection procedure, and data analysis technique that will be used in this thesis.

The fourth chapter will be the most important part of this thesis, it will discuss the analysis or the findings of the thesis. This section will firstly discuss the global shark trade, and will be continued by analyzing the international response towards the global shark trade which is known as the CITES. It will then comprehend the efforts made by the EU in fulfilling their ratification of CITES.

Lastly, this section will be closed by discussing the failures made by the EU. The fifth chapter of the thesis will conclude the earlier chapter along with providing recommendations on the betterment of the implementation of CITES that could be useful for scholars that will be analyzing similar topics in the future.

