INTERPOL

International Law Enforcement Cooperation in the Fisheries Sector

A Guide for Law Enforcement Practitioners

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International Law Enforcement Cooperation in the Fisheries Sector: *A Guide for Law Enforcement Practitioners*

FOREWORD

Fisheries around the world have been suffering increasingly from illegal exploitation, which undermines the sustainability of marine living resources and threatens food security, as well as the economic, social and political stability of coastal states. The illegal exploitation of marine living resources includes not only fisheries crime, but also connected crimes to the fisheries sector, such as corruption, money laundering, fraud, human or drug trafficking.

These crimes have been identified by INTERPOL and its partners as transnational in nature and involving organized criminal networks. Given the complexity of these crimes and the fact that they occur across the supply chains of several countries, international police cooperation and coordination between countries and agencies is absolutely essential to effectively tackle such illegal activities.

As the world's largest police organization, INTERPOL's role is to foster international police cooperation and coordination, as well as to ensure that police around the world have access to the tools and services to effectively tackle these transnational crimes.

More specifically, INTERPOL's Environmental Security Programme (ENS) is dedicated to addressing environmental crime, such as fisheries crimes and associated crimes. Its mission is to assist our member countries in the effective enforcement of national, regional and international environmental law and treaties, creating coherent international law enforcement collaboration and enhancing investigative support of environmental crime cases.

It is in this context, that ENS – Global Fisheries Enforcement team identified the need to develop a Guide to assist in the understanding of international law enforcement cooperation in the fisheries sector, especially following several transnational fisheries enforcement cases in which INTERPOL was involved.

This Guide, drafted under the auspices of INTERPOL's Office of Legal Affairs and in close collaboration with the ENS – Global Fisheries Enforcement team, aims to provide an overview of existing international, regional, and to some extent, national legal frameworks to combat fisheries and crimes associated to the fisheries sector, to present policing capabilities offered by our organization and to analyze real INTERPOL fisheries enforcement case studies.

I hope that INTERPOL's member countries will fully utilize this new tool to enhance their response to transnational fisheries crimes and crimes connected to the fisheries sector.

Paul Stanfield

Director, Organized and Emerging Crime

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INTERPOL GLOBAL FISHERIES ENFORCEMENT

In early 2013, INTERPOL launched Project Scale to detect, suppress and combat fisheries crime. This was to be achieved through raising awareness of fisheries crime, conducting operations to suppress criminal activity in the fisheries sector, developing the Fisheries Crime Working Group and providing recommendations on effective enforcement methods. Project Scale, now in its fifth year, transforms into INTERPOL Global Fisheries Enforcement.

INTERPOL Global Fisheries Enforcement is dedicated to enabling INTERPOL member countries to identify, deter and disrupt transnational crimes that are associated with or related to the fisheries sector. Global Fisheries Enforcement works to ensure the traceability and legality of products and to ensure that the proceeds of large-scale commercial fishing are not used to finance criminal activity.

The team is composed of criminal intelligence officers (with backgrounds in maritime policing, naval services and fisheries enforcement), multidisciplinary analysts and other specialists with appropriate expertise and skills. Members of the team work with specialized officers in other crime areas in order to identify connections between crimes, supply chains, trade routes and emerging criminal trends.

INTERPOL looks at all types of illegal and criminal activity which facilitate or accompany illegal fishing. These activities may be regarded as administrative or criminal offences at the national level, and include offences such as illegal fishing, document and food fraud, tax evasion, handling of stolen goods, corruption, money laundering, document falsification, the use of fishing vessels to traffic drugs and weapons and forced labour in the fishing industry.

The Global Fisheries Enforcement Team is supported by INTERPOL's Fisheries Crime Working Group (FCWG) (see Chapter 3.3.3), which provides an international platform for cooperation between member countries. Guided by a board, the FCWG organizes annual meetings for operational-level representatives from fisheries and tax authorities, customs, national police, navies and coastguards to work on agreed programmes of activity throughout the year.

INTERPOL acts as a neutral platform for the global exchange of law enforcement information and provides guidance, coordination and assistance to all of its member countries. Accordingly, the Global Fisheries Enforcement team facilitates cooperation and information exchange between INTERPOL member countries and, through its work, aims to bolster domestic proceedings in relation to illegal, unreported and unregulated (IUU) fishing, fisheries crimes and other crimes committed in the fisheries sector.

The Global Fisheries Enforcement team is externally funded with governmental and non-governmental support.

EXECUTIVE SUMMARY

To date, no single publication has addressed the question of international law enforcement cooperation in the fisheries sector. It is the goal of this Guide to fill this gap by providing a comprehensive (but by no means all-encompassing) resource to enhance and develop the capacity, capability and cooperation of member countries to effectively tackle illegal fishing and associated crimes.[1] The Guide is especially intended to aid fisheries enforcement and other agency officers, such as customs agents and vessel registrars, who may not be aware of the types of assistance available to them from other countries and regional and international organizations, or how to secure such help.

Longer-term, it is the hope that the information in this Guide will become a permanent tool to aid the work done by national enforcement authorities in the fisheries sector. This is imperative given the international dimension of fisheries offences; state-to-state cooperation is a realizable, long-term, and mutually supportive objective that can be managed by self-reliant states, between networks of developed and developing countries and among INTERPOL National Central Bureaus.

This Guide is divided into four chapters.

The first chapter discusses the reasons for international cooperation in this sector. The first half of the chapter lays out the types of offences covered in this Guide, including IUU fishing, fisheries crimes and other associated crimes; it concludes with an overview of the typology of offenders conducting illegal activities. The second part of the chapter lays out the challenges inherent in coordinating responses between multiple jurisdictions.

The second chapter lays out the legal framework for combating crimes in the fisheries sector. Because international, regional and/or national instruments can all be used to fight IUU fishing and crimes in the fisheries sector, the chapter presents a selection of relevant international and regional frameworks that establish rules and principles governing the exploitation of marine fisheries resources, as well as available mechanisms for international cooperation.

The third chapter presents the INTERPOL policing capabilities that may be useful in facilitating law enforcement cooperation. In particular, it provides an overview of INTERPOL's mandate, INTERPOL's I-24/7 secure global police communication system, INTERPOL's notices and diffusions and INTERPOL's databases and criminal analysis files. It goes on to explain some of INTERPOL's specialized teams: the National Environmental Security Task Force (NEST), Regional or Global Investigative and Analytical Case Meetings (RIACMs), and capacity building and training for law enforcement.

The fourth chapter is a practical guide for law enforcement practitioners investigating fisheries-related crimes. The first part of the chapter presents a framework to national authorities on available processes for requesting international cooperation in IUU fishing and fisheries crimes. The goal of this section is to provide those national and regional authorities working on matters related to illegal fishing with ideas for tools and processes available to them in order to obtain information and/or admissible evidence from other states.

[1] "Associated crimes" is an umbrella term used to describe the set-up of the criminal business models, the illegal harvesting and the supply and value chains that turn fish catches into criminal profits.

The second part of the chapter examines two real-life examples of international cooperation in the context of IUU fishing, fisheries crimes and other crimes committed in the fisheries sector. The case studies aim to illustrate the benefits of international cooperation and, specifically, the use of INTERPOL's policing capabilities in the framework of the activities of Global Fisheries Enforcement, including operational, tactical and analytical support to tackle multiple crime types. Following each case study, the major issues at stake that can be addressed by cooperation between INTERPOL's member countries and international/regional actors are examined. These include the use of INTERPOL's notices, I-24/7 messages and deployment of Investigative Support Teams, as well as requests for mutual assistance. A set of recommendations is included after the analysis in each subchapter.

The Guide concludes with a glossary, a list of common acronyms, a bibliography, and two appendices: one containing the ratification statuses of relevant international instruments, and the second a list of ratification statuses of regional fisheries cooperation instruments, current as of December 2017.

CHAPTER 1: UNDERSTANDING THE NEED FOR INTERNATIONAL COOPERATION IN THE FISHERIES SECTOR

This chapter introduces the major factors that contribute to the need for international cooperation in the fisheries sector. The first half of the chapter lays out the different fisheries-related offences and crimes that will be covered in this Guide: illegal, unreported and unregulated (IUU) fishing (1.1.1), fisheries crimes (1.1.2) and other associated crimes committed in the fisheries sector (1.1.3). It concludes with an overview of the typology of offenders conducting illegal activities in the fisheries sector (1.1.4). The second part of the chapter details the challenges inherent in coordinating responses between multiple jurisdictions.

1.1 Overview: offences in the fisheries sector

World fish stocks are under pressure: according to the United Nations Food and Agriculture Organization (FAO), as of 2013, almost 90% of global fish stocks were being fully or over-exploited, including 31.4 per cent estimated as overfished, 58.1 per cent as fully fished and 10.5 per cent as underfished.[2]

Various types of offences committed in the fisheries sector contribute to the exploitation of global fish stocks. This Guide uses "fisheries crime" as an umbrella term to describe crime in the entire fisheries sector, from harvest to processing, through the supply chain, all the way to food fraud at the consumer level.[3] The terminology also refers to well-established criminal offences which facilitate crime in the fisheries sector, such as blackmail, conspiracy and bribery.

Additionally, evidence emerges regularly of other illegal activities in the fisheries sector, such as violations of customs regulations, tax fraud, forced labour, and food labelling fraud. All are exploited by perpetrators to maximize profits from the capture of and global trade in fisheries products and, increasingly, marine species protected by national or international law.

1.1.1 Illegal, unreported and unregulated fishing

Definition of IUU fishing

There is no binding international convention with a definition of IUU fishing. Because there is widespread variation in how states criminalize the different categories of IUU fishing, INTERPOL Global Fisheries Enforcement views IUU fishing as a risk indicator of fisheries crimes and other crimes committed within the fisheries sector.

For the purposes of this Guide, IUU fishing includes three types of fishing activities as defined in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).[4]

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[2] UN Food and Agriculture Organization (FAO), *The State of World Fisheries and Aquaculture: Contributing to Food Security and Nutrition for All*, Rome, 2016, p.6.
[3] See the Glossary for further information on the definition of "supply chain."
[4] *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (IPOA-IUU), adopted in Rome on 2 March 2001, endorsed on 23 June 2001.

Illegal fishing includes activities:

> conducted by national or foreign vessels in waters under the jurisdiction of a State, **without the permission** of that State, or **in contravention of its laws and regulations**;[5]
>
> conducted by vessels flying the flag of States that are parties to a relevant **regional fisheries management organization** (RFMO) but operate **in contravention of the conservation and management measures[6] adopted by that organization** and by which the States are bound, or relevant provisions of the applicable international law; or
>
> **in violation of national laws or international obligations**, including those undertaken by cooperating States to a relevant regional fisheries management organization [emphasis added].[7]

Unreported fishing includes fishing activities:

> which **have not been reported**, or **have been misreported**, to the relevant national authority, in contravention of national laws and regulations; or
>
> undertaken **in the area of competence of a relevant regional fisheries management organization** which have not been reported or have been misreported, in contravention of the reporting procedures of that organization [emphasis added].[8]

Unregulated fishing includes fishing activities:

> **in the area** of application of a relevant **regional fisheries management organization** that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, **in a manner that is not consistent with or contravenes the conservation and management measures of that organization**; or
>
> **in areas** or for **fish stocks** in relation to which **there are no applicable conservation or management measures** and where such fishing activities are conducted **in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law** [emphasis added].[9]

[5] See the Glossary for further information on the definition of a "vessel."
[6] See the Glossary for further information on the definition of "conservation and management measures."
[7] *Supra* n.4, para. 3.1.
[8] *Supra* n.4, para. 3.2.
[9] *Supra* n.4, para. 3.3.

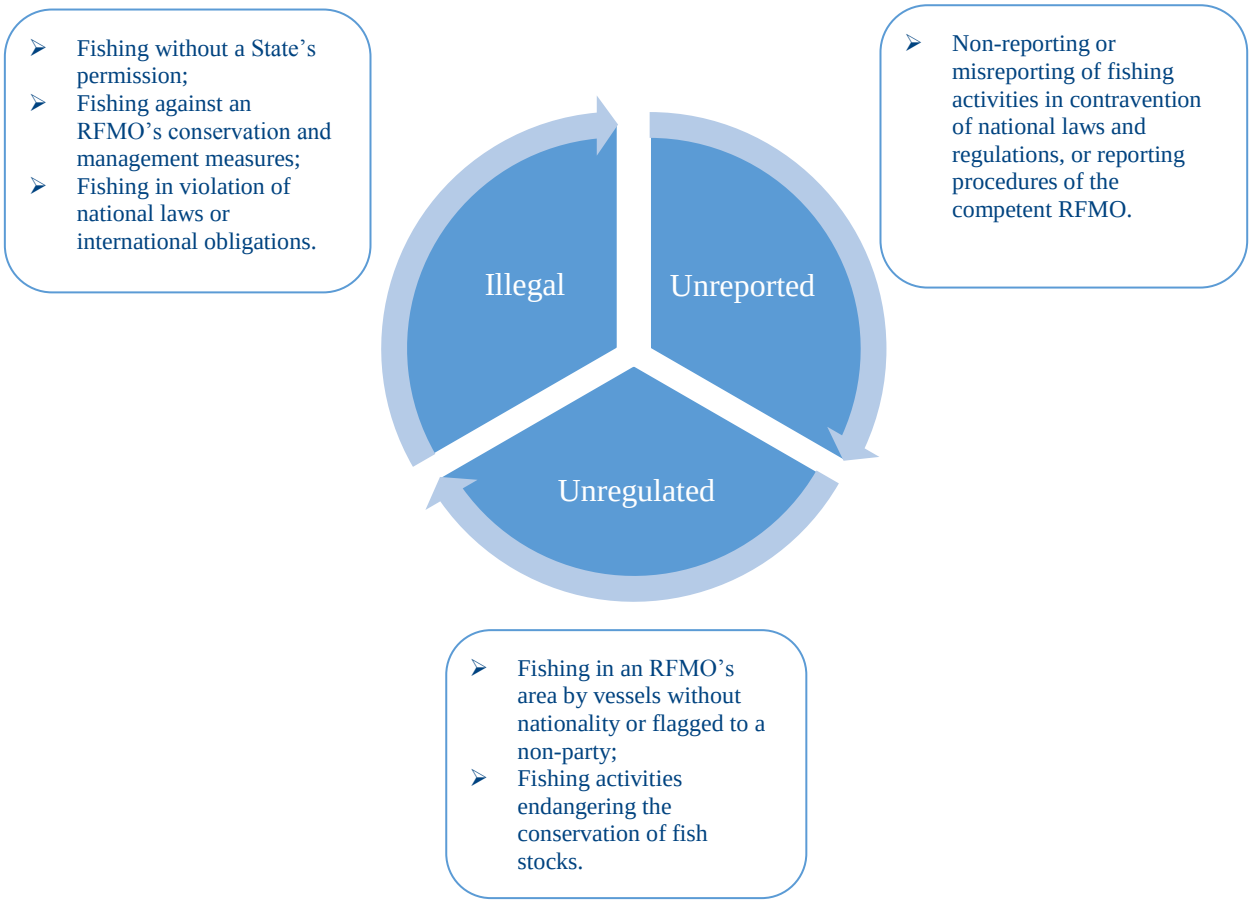

Figure 1.1: IUU fishing components

The scope of IUU fishing

IUU fishing is geographically widespread and has large financial repercussions. Experts estimate the environmental losses due to IUU fishing to be between **11 and 26 million tons** of fish per year (around 18 per cent of the global catch), which represents an estimated yearly financial loss of between **USD 10 billion and USD 23.5 billion**.[10]

The professional enforcement experience of the INTERPOL Global Fisheries Enforcement team and its enforcement partners in member countries corroborates that this range of estimates is not unrealistic. Added to this is the degree to which illegal harvests are inextricably mixed with legal products of the same species, rendering these catches undetectable and untraceable. Such contamination raises complex issues in trying to evaluate the integrity of supply chains, due diligence in the fishing sector and how profit margins are realized for the value of the legal catches mixed with IUU fish. Furthermore, forced labour, whether at sea or in processing plants ashore, is a well-known and documented feature of some fisheries business models, and is alleged by some NGOs (such as the Environmental Justice Foundation) to be a profit-driven response to declining catches due to IUU fishing.[11] This and other types of profit-driven cost-

[10] David J. AGNEW *et al*, "Estimating the Worldwide Extent of Illegal Fishing," PLoS ONE 4(2): e4570. doi:10.1371/journal.pone.0004570, 2009, p.4.

[11] Presentation by Steve TRENT, Executive Director, Environmental Justice Foundation, *Combating Transnational Organised Crime in the Fishing Industry: Global Challenges and International Cooperation*, 23 November 2017, European Parliament, Brussels.

reduction measures by criminals compromise the integrity of products in the supply chain and should be considered to be further social cost multipliers over and above the estimates of the value of the illegal portion of the catch.

The Food and Agriculture Organization (FAO) of the United Nations found that IUU fishing occurs in all types and sizes of fisheries (both on the high seas and in areas under national jurisdiction), concerns all aspects and stages of the capture and utilization of fish and may sometimes be associated with organized crime.[12] The FAO also has reported that IUU fishing has escalated in the past 20 years, especially in high seas fisheries.[13]

Combatting IUU fishing internationally

At the international level, the threat posed by IUU fishing has been acknowledged by the United Nations General Assembly (UNGA), which:

> Emphasizes once again its serious concern that **illegal, unreported and unregulated fishing remains one of the greatest threats to marine ecosystems** and continues to have **serious and major implications for the conservation and management of ocean resources**, and renews its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all steps necessary to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing [emphasis added].[14]

The UNGA also recognized the need to end IUU fishing in the framework of its 2030 Agenda for Sustainable Development. In this regard, Sustainable Development Goal 14 specifically targets the elimination of IUU fishing by setting a global goal to:

> **By 2020**, effectively regulate harvesting and **end** overfishing, **illegal, unreported and unregulated fishing** and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics [emphasis added].[15]

[12] FAO, *The State of World Fisheries and Aquaculture: Opportunities and Challenges*, Rome, 2014, p.84.
[13] *Ibid.*
[14] General Assembly Resolution 64/72, *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, A/RES/64/72, 4 December 2009, paragraph 44, available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/466/15/PDF/N0946615.pdf *to be superseded by* General Assembly Resolution A/72/L.12, *Sustainable fisheries including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, provisionally available as document A/72/L.12.
[15] General Assembly Resolution 70/1, *Transforming our World: The 2030 Agenda for Sustainable Development*, A/Res/70/1, 25 September 2015, Goal 14.4, p.24.

Understanding IUU fishing by INTERPOL Global Fisheries Enforcement: IUU as an indicator of other crimes

At the national level, different countries consider IUU fishing to be either an administrative violation, a criminal offence, or both.

This Guide does not categorize IUU fishing as an administrative nor a criminal offence. Rather, IUU fishing is used as a risk indicator of fisheries crimes or other associated crimes committed within the fisheries sector. For the purposes of this Guide, these crimes fall into two categories:

- **Fisheries crimes:** IUU fishing can indicate the presence of other crimes committed along the fisheries supply chain, such as document fraud, corruption, tax evasion, money laundering, disobedience of an order to stop, forced labour, illicit trade or food fraud.

- **Other crimes committed in the fisheries sector:** IUU fishing can also indicate the occurrence of other crimes committed by individuals working in the fisheries sector, outside of the fisheries supply chain. These crimes include human trafficking/smuggling of migrants, drug smuggling, maritime piracy, firearms trafficking and terrorism.

Treating IUU fishing as a risk indicator of other crimes enables the implementation of a multidisciplinary approach which allows for the prosecution of a greater number of cases related to illegal activities in the fisheries sector.

1.1.2 Fisheries crimes

Fisheries crimes can occur at any stage of the fishing industry process. This section is divided into three phases and details some of the most prevalent examples of crimes that occur during each stage.

PREPARATION PHASE:

Document fraud

Document fraud is a very common offence in the fisheries sector, as most fishing documentation is still paper-based.

Document fraud may include the production of false documents in relation to a ship's flag State registration or ownership, or as to a vessel's name, dimensions or identifiers.[16]

During the ensuing phases, document fraud may consist of, but is not limited to, the following: false fishing licences; false catch and transshipment documents; or mislabelling of fish and/or fish products on export/import packages.[17]

[16] See the Glossary for further information on the definition of a "flag State."
[17] See the Glossary for further information on the definition of "transshipment."

Corruption

Because the fisheries sector is a highly regulated industry, it is particularly vulnerable to corruption. The most common form of corruption is active bribery.

During the preparation phase, active bribery consists of promising and/or giving a bribe to a public official. The aim of the bribe may be the issuance of the necessary documentation for conducting illegal fishing activities, such as fishing licences, or to persuade officials to operate registries with little or no oversight.[18]

Active bribery can also take place during the later stages of the fisheries supply chain. It may aim to circumvent on-board or in-port inspections or to discontinue proceedings concerning the offences committed by the offenders.[19]

Tax evasion

During the preparation phase, tax evasion in the fisheries sector can take place by different means, including through the creation of shell companies or offshore financial centres.

Methods of tax evasion may also include the evasion of import duties on fish and fish products transported across national borders, value-added tax fraud or the evasion of income tax or other taxes.[20] The main methods used to commit tax fraud are disguising the origin of the fish (either the country of origin or the identity and flag of the fishing vessel), under-declaring the size of a catch or mislabelling the products caught or sold.[21]

Money laundering

Money laundering within the fisheries sector may take several forms, including the laundering of the proceeds of crimes committed in the course of fisheries activities or of other crimes committed in the fisheries sector.

The proceeds of crime may be siphoned into the fishing industry supply chain at many stages. During the preparation phase, offenders can invest illicit funds in new infrastructure, including fishing gear, fish processing facilities or transportation. Illicit funds can also be laundered during the sale of fish at port or by paying crew members in cash.

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[18] HAENLEIN Cathy, Below the Surface: How Illegal, Unreported and Unregulated Fishing Threatens our *Security*, Royal United Services Institute (RUSI), Occasional Paper, July 2017, p20.
[19] INTERPOL, *Study on Fisheries Crime in the West African Coastal Region*, Environmental Security Sub-Directorate, Project Scale, September 2014, pp.25-26.
[20] OECD, *Evading the Net: Tax Crime in the Fisheries Sector*, Centre for Tax Policy and Administration, 2013, p.26.
[21] *Ibid*. See the Glossary for further information on the definition of "fishing vessel."

CATCH PHASE:

Disobedience of an order to stop

When a vessel is caught fishing illegally in the Exclusive Economic Zone (EEZ, see Chapter 2.1.1.1) of a coastal State, a national Fisheries Protection Vessel (FPV) may order the vessel to stop in order to verify the vessel's documentation.[22] Depending on national legislation, the disobedience of an order to stop by the captain of the vessel can constitute a criminal offence.

Forced labour

Direct links between vessels involved in illegal fishing and vessels exploiting their crew for forced labour have been reported, along with other forms of abuse, including physical and sexual abuse, coercion, disregard for safety and working conditions of crew members and even murder.[23]

Forced labour can also occur in fish processing facilities.

SALE PHASE:

Illicit trade

The illicit trade of fisheries products is facilitated by various means. For example, the forgery of catch documentation is simple, especially due to the prevalence of paper-based catch documentation schemes.[24]

Insufficient enforcement of fisheries regulations at the port of entry, often due to lack of staff and resources, also allows for the illegal trade of fisheries products.

Food fraud

Food fraud in the fisheries sector can occur through the mixing of illegally and legally caught fish or the mislabelling of products.

Falsification of documents, such as landing or/and transshipment documents, can also constitute breaches of custom regulations as well as food hygiene regulations, which may then pose a risk to public health.

[22] For the purposes of this Guide, a coastal State is defined as a state in whose territory, including its territorial sea, a fisheries offence occurs.

[23] ILO, *Caught at Sea: Forced Labour and Trafficking in Fisheries*, International Labour Office, Geneva, 2013; UNODC, *Transnational Organized Crime in the Fishing Industry. Focus on: Trafficking in Persons, Smuggling of Migrants, Illicit Drugs Trafficking*, Vienna, 2011; EJF, *All at Sea - The Abuse of Human Rights aboard Illegal Fishing Vessels*, London, 2010.

[24] See the Glossary for further information on the definition of a "catch documentation scheme."

1.1.3 Other crimes committed in the fisheries sector

In addition to fisheries crimes, other types of crimes are often committed as part of the fishing trade.

These other crimes may include human trafficking/smuggling of migrants, drug smuggling, maritime piracy, firearms trafficking or terrorism, and often form part of the activities of an international organized crime network.

Human trafficking/ smuggling of migrants

Human trafficking and/or smuggling of migrants occurs in the fisheries industry.

Generally speaking, fishers themselves are not central players in major organized migrant smuggling groups, even though there may be instances of fishers paid by smugglers to bring migrants into their destination of choice. In addition, one of the consequences of the depletion of fish stocks is an oversupply of fishing vessels which can be used to facilitate migrant smuggling.[25]

Human trafficking in the fishing industry takes place in most major regions of the world. The trafficking of children for the purpose of forced labour in artisanal fishing activities is considered to be socially acceptable in some regions.[26]

Drug smuggling

Fishing vessels may be used for the illicit trafficking of drugs such as cocaine (especially from the Andean region to North America and Europe, and via West Africa to Europe),[27] cannabis (from North Africa to Europe)[28] and heroin (mainly in the Adriatic region and Asia).[29]

The illegal fishing industry may also be involved in the exchange of marine living resources for illicit amphetamine-type stimulants and their precursors in some parts of the world (seen in Asia, South Africa, New Zealand or Australia).[30]

Maritime piracy

Large-scale crimes targeting marine living resources may be causally linked to piracy when fishing vessels are targeted by pirates and used as "mother ships" for pirate activities (as has occurred in Somalia).[31]

[25] UNODC, *supra* n.23, p.73.
[26] UNODC, *supra* n.23, p.136.
[27] UNODC, *supra* n.23, pp.75-86.
[28] UNODC, *supra* n.23, pp.88.
[29] UNODC, *supra* n.23, pp.89-92.
[30] UNODC, *supra* n.23, pp.86-87.
[31] UNODC, *supra* n.23, pp.121-123.

Firearms trafficking

Fishing vessels may also be used to a lesser extent for the purpose of illicit trafficking in guns in some regions of the world, especially due to their ability to "blend in" among legitimate fishing vessels (such as in Yemen, Somalia, Taiwan, and the Philippines).[32]

Terrorism

In a few cases, fishing vessels have also been used for the purpose of terrorist acts (for example, instances of this have been reported in India).[33]

[32] UNODC, *supra* n.23, p.123-124.
[33] UNODC, *supra* n.23, p.125.

1.1.4 Typology of offenders conducting illegal activities in the fisheries sector

IUU fishing, fisheries crimes and other crimes within the fisheries sector are not necessarily spearheaded by single individuals or businesses. They generally involve several individuals from various backgrounds, each playing a specific role in the illegal activities taking place in the fisheries supply chain.

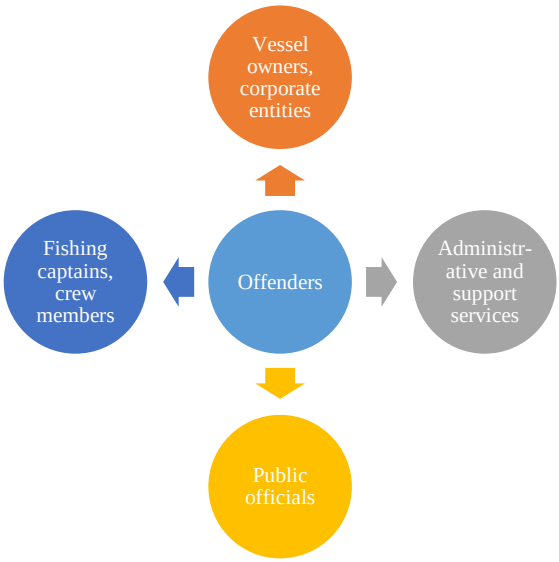
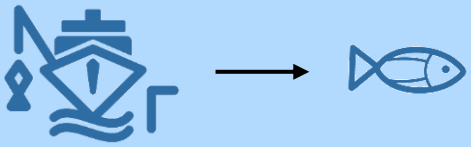


Figure 1.2: Typology of offenders in the fisheries sector

Fishing captains/crew members: Because they are at the forefront of fishing activities, the captain and crewmembers of fishing vessels are often the first ones to be held responsible in cases of illegal activities in the fisheries sector. Nevertheless, they should not be considered to be the only offenders involved in these types of offences.

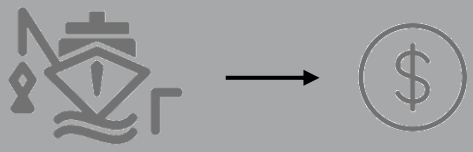
Vessel owners/corporate entities: The corporate structure behind illegal fishing activities is complex. It often entails an opaque company structure where the legal owner is not the beneficial owner.[34]

Legal or registered owner[35]



- Name on the title of ownership of the vessel
- Registration is often in an open registry state[36]

Beneficial owner



- Controls the real activities of the vessel
- Hides behind the registered legal activity
- Benefits from the profits
- Owned by front companies registered in international tax havens

[34] See the Glossary for further information on the definition of a "beneficial owner."
[35] See the Glossary for further information on the definition of a "registered owner."
[36] See the Glossary for further information on the definition of an "open registry." While some States that operate open registers have taken positive steps to fulfil international flag State compliance responsibilities in respect of fishing vessels, others have yet to engage in the process, and do not exercise these responsibilities. Many of these States do not belong to, or cooperate with, any RFMO that has adopted international conservation and management measures. While use of the term "flag of convenience" is widely used to indicate those ships flying

Administrative and support services: Support services can play a key role in setting up the corporate structure, financial aspects and overall business networks behind illegal activities in the fisheries sector.

Public officials: Offences can also be committed at various levels within public institutions including within the law enforcement community.

Offenders may commit various offences, such as:

Fishing captains/crew members

Corruption/bribery
Document fraud
Forced labour

Vessel owners/corporate entities

Tax fraud
Money laundering
Illicit trade
Violation of national/regional food laws (food fraud)

Administrative and support services

Tax fraud
Money laundering

Public officials

Corruption/bribery
Document fraud

When these individuals or entities collaborate with each other to conduct illegal activities in the fisheries sector, they may meet the requirements laid out in Article 2(a) of the UN Convention on Transnational Organized Crime (UNTOC) to be considered as an "organized criminal group."

According to this definition, a group is considered to be an "organized criminal group" if it meets the four criteria below:

- a group of three or more persons that was not randomly formed;
- existing for a period of time;
- acting in concert with the aim of committing at least one crime punishable by at least four years' incarceration;
- in order to obtain, directly or indirectly, a financial or other material benefit.

the flags of open registry states, whether a flag is "convenient" is a matter of interpretation. Some States operating open registers have adopted laws and administrative practices that are not as relaxed, or convenient to shipowners, as others. Additionally, although a vessel may fly what is considered a flag of convenience, it may be genuinely owned and operated by nationals of the flag country.

In this case, as "participation in an organized criminal group" is one of the offences covered by UNTOC (alongside money laundering, corruption, obstruction to justice and serious crimes – crimes punishable with a maximum deprivation of liberty of at least four years), the legal frameworks provided by the UNTOC regarding extradition (Article 16) and mutual legal assistance (Article 18) could apply in the absence of a bilateral, regional or multilateral treaty concluded between the countries concerned (see Chapter 2.1.2.1 for more information on UNTOC).

1.2 The challenge of multiple jurisdictions

Offences committed in the fisheries sector can be transnational in nature, which means that the illicit fishing activity of the vessel or any other illegal activity perpetrated by the vessel's managers or crew (e.g. forced labour, tax evasion or trafficking in drugs) is often subject to multiple jurisdictions. The implications of this will be discussed in this subchapter.

1.2.1 The transnational nature of fisheries crimes and connected crimes

The transnational aspect of fisheries crimes can derive from various elements such as:

- the flag State of the fishing vessel;
- the coastal State in whose waters the fisheries crimes occurred;
- the port State where the illegal catches are landed;[37]
- the nationality of individuals, operators and companies;[38]
- the import or export State.

Crimes connected to the fisheries sector may touch multiple national jurisdictions, such as:

- from which crews are drawn (in instances of human trafficking);
- where vessel insurers operate;
- where beneficial owners reside;
- of the market State (for illegally harvested resources);
- from which corruption money originates or to which it is funnelled.

[37] See the Glossary for further information on the definition of a "port State."
[38] See the Glossary for further information on the definition of a "beneficial owner."

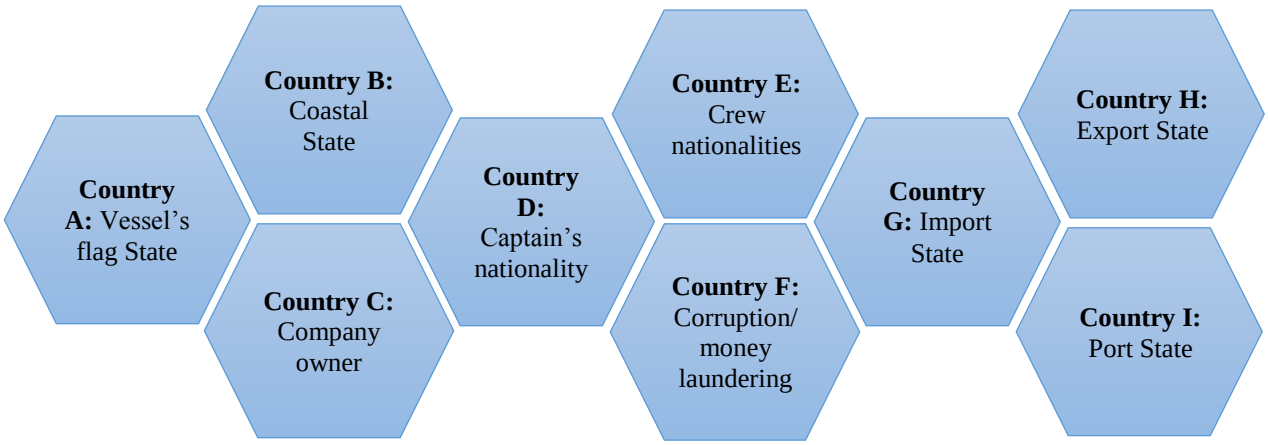


Figure 1.3: Example of the multiplicity of countries that can be involved in fisheries crime

This multiplicity of jurisdictions results in the need for effective cooperation at the prevention, investigation and prosecution stages between the different States and administrations involved in order to work together to share information and connect investigations. Additionally, States have the option of transferring criminal proceedings from one country to another to increase the successful chances of a prosecution.

Transfer of criminal proceedings in cases involving several jurisdictions

In cases where several jurisdictions are involved, criminal proceedings may be transferred from one country to another through international cooperation.

The transfer of jurisdictions can be used to:

- increase the chances of success of a prosecution when one country is better positioned to conduct the proceedings;
- increase prosecution efficiency and effectiveness in a country that is initiating proceedings in lieu of extradition;
- concentrate prosecution in one jurisdiction and increase the efficiency and likelihood of its success in cases involving multiple jurisdictions.

Certain UN Conventions, namely, the UN Conventions against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Article 8), against Transnational Organized Crime (Article 21), and against Corruption (Article 47), contain provisions enabling State Parties to transfer proceedings where this is in the interest of the proper administration of justice.

See: UNODC, *Cross-Cutting Issues: International Cooperation*, in *Criminal Justice Assessment Toolkit*, New York, p.13.

1.2.2 Fisheries crimes as transnational organized crimes

This nexus between international organized crime and illegal fishing was highlighted by the United Nations General Assembly in its Resolution 64/72 on sustainable fisheries adopted on 4 December 2009, where it:

> *(n)otes* the concerns about **possible connections between international organized crime and illegal fishing** in certain regions of the world, and encourages States, including through the appropriate international forums and organizations, to study the causes and methods of and contributing factors to illegal fishing to increase knowledge and understanding of those possible connections, and to make the findings publicly available, bearing in mind the distinct legal regimes and remedies under international law applicable to illegal fishing and international organized crime [emphasis added].[39]

These concerns were confirmed by the findings of UNODC's Report on Transnational Organized Crime in the Fishing Industry (2011) which identified many vulnerabilities of the fishing industry to transnational organized crime and other forms of criminal activity.[40]

As previously mentioned, the nexus between international organized crime and illegal fishing in certain regions of the world was highlighted in the December 4, 2009, United Nations General Assembly Resolution 64/72 on sustainable fisheries.[41] A similar link between international organized crime and IUU fishing was raised at the meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) and at the meeting of the Conference of Parties to the UN Convention against Transnational Organised Crime in 2008.[42]

However, the fact that a connection between illegal fishing and international organized crime has been acknowledged does not always mean that a fisheries crime can be categorized as an international organized crime. As mentioned previously in Chapter 1.1.4, Article 3 of UNTOC defines a transnational organized crime as a serious crime involving an organized criminal group where the offence is transnational in nature; a "serious crime" for purposes of the Convention is defined as conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years, or a more serious penalty.

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[39] *Supra* n.14.

[40] United Nations Office on Drugs and Crime (UNODC), *Transnational Organized Crime in the Fishing Industry – Focus on: Trafficking in Persons, Smuggling of Migrants, Illicit Drugs Trafficking*, Vienna, 2011, p. 4, available at: https://www.unodc.org/unodc/en/human-trafficking/2011/issue-paper-transnational-organized-crime-in-the-fishing-industry.html.

[41] *Supra* n.14.

[42] United Nations, "Conference of Parties to the United Nations Convention Against Transnational Organized Crime, Report of the Conference of Parties to the United Nations Convention Against Transnational Organized Crime on its Fourth Session," Vienna, October 8-17, 2008, CTOC/COP/2008/19, 1 December 2008, para. 210, cited by PALMA-ROBLES, Mary Ann *in* "Fisheries Crime: Bridging the Conceptual Gap and Practical Response," *Centre for International Maritime Security*, July 30, 2014, http://cimsec.org/fisheries-crime-bridging-conceptual-gap-practical-response/12338.

Fisheries crimes can fall under UNTOC's definition of transnational organized crimes in two different ways:

Category 1: When a fisheries crime involves offences referred to in Article 3(1) and the UNTOC protocols:

- participation in an organized criminal group
- money laundering
- corruption
- obstruction of justice
- human trafficking
- migrant smuggling
- illicit manufacture and trafficking in firearms.

Category 2: Under Articles 3 and 2(a)-(c) of UNTOC, an offence involving a fisheries crime is:

- transnational
- involves an organized criminal group
- is considered in domestic laws as a criminal offence punishable by prison sentences of four years or more (a "serious crime" as defined by the Convention).

1.2.3 Stakeholders involved in international cooperation

Given the transnational nature of fisheries crimes, efficient global fisheries enforcement and prosecution requires partnerships at various levels and involves stakeholders from different sectors.

Interagency cooperation, such as through good practices and collaborating on projects, can help build and strengthen the required international cooperation and governance frameworks to combat transnational fisheries crime.

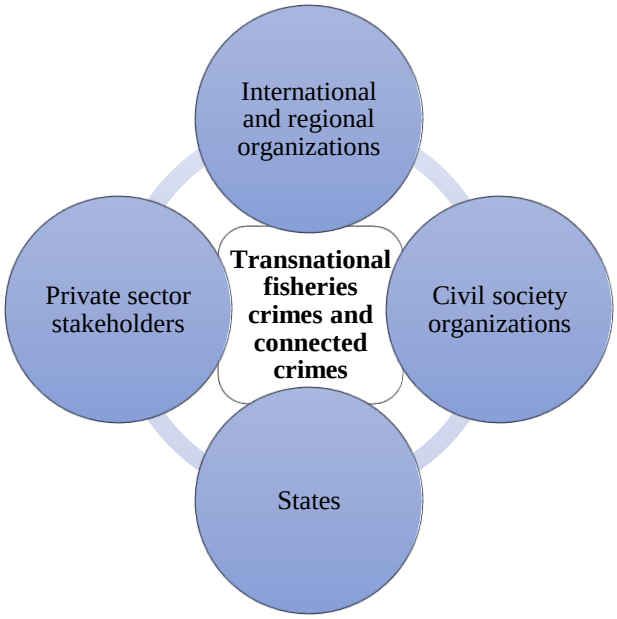

Figure 1.4: Stakeholders involved in international cooperation in the fisheries sector

States

States are the leading actors in addressing fisheries crime.

In order of proximity to the illegal fishing activities, State actors can be (1) coastal States (unless the illicit fishing activity takes place on the high seas), (2) flag States, (3) States of nationality of the involved natural and juridical persons, (4) port States and (5) market States.[43] A coastal State may also combine one or more of these functions.

The rights and obligations of States in relation to fisheries crimes will then depend on their position, as well as their ratifications of international and regional agreements (see Chapter 2 and Appendix II).

Because there is a lack of consensus among States on the concept of environmental crime and the extent to which the environment should be protected through criminal law, multilateral environmental agreements (MEAs), such as international and regional conventions related to fisheries, have given States the opportunity to choose how to sanction violations: they can adopt either administrative, civil or criminal sanctions, or some combination thereof.[44]

States involved at some stage in the supply chain of fisheries crime are therefore free to choose how to respond to these activities. They may choose to criminalize relevant activities, impose administrative or civil law sanctions below the level of criminal law, or remain inactive, in which case an activity subject to criminal or administrative sanctions in one State may be perfectly legal in another.[45]

International organizations

No single international organization is dedicated to fighting fisheries crime. The following list includes a number of organizations that participate in activities related to targeting crime in the fisheries sector.

INTERPOL

In 2013, INTERPOL launched Project Scale, which provides a global platform for combating illegal fishing and related criminal activities which facilitate illegal fishing. The role of Project Scale, now Global Fisheries Enforcement, in identifying, deterring and disrupting transnational fisheries crimes is further developed in Chapter 3 of this Guide.

[43] SCHATZ Valentin J., "The battle against transnational fisheries crime," 3 March 2017, available at: http://voelkerrechtsblog.org/the-battle-against-transnational-fisheries-crime/.
[44] FAJARDO Teresa, "Transnational environmental crime: a challenging problem but not yet a legal concept," 15 February 2017, available at: https://voelkerrechtsblog.org/transnational-environmental-crime-a-challenging-problem-but-not-yet-a-legal-concept/.
[45] ELLIOTT Lorraine, "Green Crimes - Transnational Environmental Crimes as a new category of international crimes?" 6 February 2017, available at: https://voelkerrechtsblog.org/green-crime/.

OECD

The work of the Organisation for Economic Co-operation and Development (OECD) on fisheries focuses on fighting tax crimes and developing a sustainable economy. The OECD Task Force against Tax Crimes, the OECD Anti-Bribery Convention and the Financial Action Task Force are initiatives and instruments designed to support OECD members on issues related to economic and financial crime, which can be used to fight tax and bribery crimes in the fisheries sector. In 2013, the OECD published a report entitled "Evading the Net: Tax Crime in the Fisheries Sector," analysing tax crimes in the fisheries sector and offering avenues to combat it.[46]

FAO

The UN Food and Agriculture Organization (FAO) plays a leading role in international fisheries policy, fisheries management and governance, sustainability issues and fighting IUU fishing. The FAO implements the Code of Conduct for Responsible Fisheries, the Port State and Flag State Measures Agreements to prevent, deter and eliminate illegal, unreported and unregulated fishing, and, inter alia, the International Plan of Action to Prevent, Deter And Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).

UNODC

The UN Office on Drugs and Crime (UNODC) conducts research and analytical, normative and field work to assist States in understanding crime issues and implementing international treaties.[47] Regarding crimes in the fisheries sector, UNODC has conducted two broad studies: "Transnational Organized Crime in the Fishing Industry" (2011)[48] and "Combating Transnational Organized Crime Committed at Sea" (2013).[49] UNODC has also designed various toolkits to provide guidance to United Nations agencies, government officials, other organizations and individuals in responding to transnational organized crimes. These include the Wildlife and Forest Crime Analytic Toolkit[50] (developed in partnership with other members of the International Consortium on Combating Wildlife Crime – ICCWC) and the Criminal Justice Assessment Toolkit.[51]

[46] Report available at: http://www.oecd.org/ctp/crime/evading-the-net-tax-crime-fisheries-sector.pdf.
[47] UNODC, *About UNODC*, http://www.unodc.org/unodc/en/about-unodc/index.html?ref=menutop.
[48] *Supra* n.4.
[49] UNODC, *Combating Transnational Organized Crime Committed at Sea – Issue Paper*, New York, 2013, available at: https://www.unodc.org/documents/organized-crime/GPTOC/Issue_Paper_-_TOC_at_Sea.pdf.
[50] UNODC, *Wildlife and Forest Crime Analytic Toolkit*, New York, 2012, available at: https://www.unodc.org/unodc/en/wildlife-and-forest-crime/wildlife-and-forest-crime-analytic-toolkit.html.
[51] UNODC, *Criminal Justice Assessment Toolkit*, New York, 2006, available at: http://www.unodc.org/unodc/fr/justice-and-prison-reform/Criminal-Justice-Toolkit.html.

ILO

In 2007, the International Labour Organization (ILO) adopted the Work in Fishing Convention (No. 188) regarding work conditions in the fisheries sector.[52] The Convention entered into force in November 2017 and will boost global efforts to ensure decent work for the world's 38 million workers in the fisheries sector by establishing new labour standards.

IMO

In 1987, the International Maritime Organization (IMO) introduced its Ship Identification Number Scheme to help prevent maritime fraud and enhance safety and security in the merchant vessel fleet. In 2013, IMO authorized the voluntary application of the IMO Ship Identification Number Scheme to apply to fishing vessels of 100 gross tons and above. This system is widely recognized as the best available global identification system for ships because each unique number stays with its corresponding vessel until it is scrapped, thus providing an independent audit trail for each vessel. IMO numbers are therefore useful tools to improve monitoring, control, and enforcement of fishing operations.

WCO

The mission of the World Customs Organization (WCO) is to enhance the effectiveness and efficiency of customs administrations, facilitate legal trade, and intercept illegal trade in wildlife. In 2012, the WCO launched an Environmental Programme to combat environmental crime and, in 2014, it adopted the WCO Declaration on Illegal Wildlife Trade. Both these initiatives are applicable to fisheries crimes.

WTO

The World Trade Organization (WTO) plays a central role in international trade by dealing with the rules of trade between nations. Talks on the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and overfishing are currently ongoing within the organization.[53]

World Bank

In 2005, the World Bank established a Global Program on fisheries known as "PROFISH." The objective of this program is to improve environmental sustainability, human well-being and economic performance in the world's fisheries and aquaculture, with a focus on welfare of the poor in fisheries and fish farming communities in the developing world.[54]

[52] C188 – Work in Fishing Convention, 2007 (N°188), *Convention concerning work in the fishing sector*, Adopted in Geneva at the 96th ILC session, on 14 June 2007, available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C188.

[53] Further details about these negotiations are available at https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm.

[54] Study available at: http://documents.worldbank.org/curated/en/656021468176334381/The-sunken-billions-the-economic-justification-for-fisheries-reform.

Regional organizations

A multitude of regional organizations work independently and together on sustainable fishing: reducing fisheries crime is one component of that. The following are examples of a few different kinds of regional organizations operating in the fisheries sector (see Chapter 2.2.1 for further information on regional organizations).

- **Regional Fisheries Management Organizations (RFMOs)**: RFMOs are designed to improve intergovernmental cooperation and are the principal forums for the management of international fish stocks. There are currently 20 RFMOs covering most of the high seas around the globe. These organizations have established various tools to combat transnational fisheries crimes, such as regional registers of fishing vessels authorized to fish in their respective areas of competence, IUU vessels lists, transshipment regulations, boarding and inspection procedures, vessel monitoring systems, trade-related measures and sanctions, port state measures or catch documentation schemes.

- **European Commission:** The European Union (EU) plays a leading role in the global fight against IUU fishing. The European Union's Council Regulation (EC) No. 1005/2008 establishes a Community system to prevent, deter, and eliminate illegal, unreported and unregulated fishing (IUU), and entered into force on 1 January 2010.[55] This regulation institutes a catch certification scheme that applies to imports from specific notified countries. Certificates accompanying imports are validated by national authorities, who certify that the products in the consignment have been caught in accordance with all applicable national, regional, and international legislation and regulations. The scheme only applies to EU-caught fish if those fish are being re-imported into the EU following processing in a non-EU country. If the EU identifies a country as non-cooperating, the regulation allows for the possibility of denial of EU market access to its flag vessels.

- **Pacific Islands Forum Fisheries Agency (FFA):** The FFA was created with the goal of strengthening national capacity and regional solidarity so its 17 members can manage, control and develop their tuna fisheries. FFA focuses its work on the fisheries management, fisheries development and fisheries operations of its members in the Pacific Ocean.

Civil society organizations

Several non-governmental organizations (NGOs) are involved in the fight against IUU fishing and general transnational fisheries crimes. For example, the Trygg Mat Foundation is a Norwegian foundation focused on sustainable seafood production. A new entity, Trygg Mat Tracking (TMT), was created in 2014 to support government enforcement of illegal fishing. TMT owns and manages a combined IUU vessel website which provides updated information on all vessels that have been listed by RFMOs and public INTERPOL notices as associated with IUU fishing activities.[56]

[55] Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No. 2847/93, (EC) No. 1936/2001 and (EC) No. 601/2004 and repealing Regulations (EC) No. 1093/94 and (EC) No. 1447/1999 [2008] OJ L286/1.
[56] See: http://iuu-vessels.org/iuu.

Other initiatives

- **Green Customs Initiative:** The Green Customs Initiative is a partnership of international organizations cooperating to prevent illegal trade in environmentally sensitive commodities such as endangered species. Its objective is to enhance the capacity of customs and other border protection enforcement personnel to detect and prevent illegal trade in environmentally sensitive commodities covered by relevant conventions and multilateral environmental agreements (MEAs), such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; see Chapter 2.1.3.1 of this guide for more information on CITES).

- **International Monitoring, Control, and Surveillance Network (International MCS Network):** The goal of the International MCS Network is to improve the efficiency and effectiveness of fisheries-related MCS activities through enhanced cooperation, coordination, information collection and exchange among national organizations and institutions responsible for fisheries-related monitoring, control, and surveillance.[57]

- **International Consortium on Combating Wildlife Crime (ICCWC):** the ICCWC was founded in November 2010 by five international organizations: the WCO, the CITES Secretariat, INTERPOL, UNODC and the World Bank. The aim of the ICCWC is to bring coordinated support at the national, regional and international level to combat wildlife and forest crime. In 2012, the ICCWC published a toolkit on Wildlife and Forest Crime (see Chapter 2.1.3.1).

Private sector stakeholders

- Private sector stakeholders, such as seafood processors, financial service providers, and vessel owners, also have a responsibility to ensure that their activities do not facilitate criminal activity.

[57] More information is available at http://www.imcsnet.org/about-us/.

1.3 Role of INTERPOL Global Fisheries Enforcement and the multi-crime enforcement approach

Where INTERPOL member countries are limited by national borders, jurisdictional boundaries or access to information, INTERPOL Global Fisheries Enforcement plays a critical role in coordinating international cooperation in the fisheries field.

Due to the nature of illegal activities in the fisheries sector, Global Fisheries Enforcement promotes an inclusive and collaborative approach to cooperation on multiple levels. The fact that fisheries crimes may be associated with other types of crimes is also relevant in terms of law enforcement because it enables a multi-crime enforcement approach (see box below). A multi-crime enforcement approach allows for greater disruption of illegal fishing activities, contributes to their prosecution, and paves the way for the imposition of effective and deterrent sanctions.

Cross-sector cooperation may occur on a regional level between the relevant regional body (e.g. the EU Commission), national liaison offices and INTERPOL National Central Bureaus (NCBs). Cooperation also occurs within Regional Fisheries Management Organizations and regional police organizations, such as EUROPOL.

Multi-crime enforcement approach to combat global fisheries crimes and infractions

A multi-crime enforcement approach is the application of a variety of laws and regulations to combat fisheries-connected crimes. Indeed, UNODC, during the 25th session of the Commission on Crime Prevention and Criminal Justice, emphasized that "where there is suspicion that a minor fishery offence may be linked to broader organized criminal activity, reliance should be made on all and any laws applicable so as to allow the identification of the full suite of potential offences warranting further investigations by relevant authorities."

INTERPOL Global Fisheries Enforcement has dealt with cases that started from illegal fishing and led to evidence of other criminal, civil or administrative code violations enforced by national enforcement agencies. This has included the falsification of registry documents and customs declarations.

See: Outcome of the UNODC/WWF Fisheries Crime Expert Group meeting, 24-26 February 2016, Vienna, https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_25/ECN152016_CRP2_e_.pdf.

CHAPTER 2: LEGAL FRAMEWORK FOR COMBATTING CRIMES IN THE FISHERIES SECTOR

Crimes in the fisheries sector can be combated in various ways: international, regional or national instruments can be used to this end. Given the transnational and often multi-crime nature of these crimes, a range of instruments will be considered when addressing these types of crimes. These instruments can deal directly with fisheries management and combatting fisheries offences such as IUU fishing, but other instruments dealing with crimes connected to the fisheries sector or aiming to counter illicit trade in the fisheries sector could also be very useful.

Specific provisions addressing fisheries enforcement cooperation exist in these international instruments and can be used as existing grounds for collaborative cooperation between flag States, coastal States, market States and port States. Moreover, INTERPOL can play a unique global role in assisting member countries who may wish to invoke some of these provisions in bringing the perpetrators to justice.

This chapter will provide an overview of the major international and regional instruments relevant for combating crimes in the fisheries sector (Chapters 2.1 and 2.2). Chapter 2.3 presents an example of national legislation that has facilitated the prosecution of individuals involved in a transnational illegal activity in the fisheries sector. Finally, Chapter 2.4 lays out a number of mechanisms for international cooperation in fighting crimes related to the fisheries sector.

2.1 Major international instruments for combatting crimes in the fisheries sector

A number of international instruments regulate the exploitation and trade of fisheries resources to ensure their sustainable use. Other conventions, which are not specifically linked to fisheries, address various types of crimes which may be connected to the fisheries sector. A summary of crime types and their related instruments is also provided in a table at the end of Chapter 2.1.

INTERNATIONAL CONVENTIONS		
Fisheries management and combating fisheries crimes	**Combating connected crimes to the fisheries sector**	**Countering illicit trade in the fisheries sector**
• United Convention on the Law of the Sea (UNCLOS) • United Nations Fish Stocks Agreement (UNFSA) • FAO Compliance Agreement • Port State Measures Agreement (PSMA) • United Nations Large-Scale Pelagic Driftnet Fishing Moratorium* • FAO Code of Conduct for Responsible Fisheries* • International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)*	• United Nations Convention against Transnational Organized Crime (UNTOC) • United Nations Convention against Corruption (UNCAC) • ILO Work in Fishing Convention No. 188 • Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention) • International Convention on Arrest of Ships • International Convention for the Prevention of Pollution from Ships (MARPOL) • International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention)	• Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) • United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Drug Convention)
*Non legally-binding instruments		

2.1.1 International treaties and agreements specifically related to fisheries

There are four major global binding treaties and multilateral agreements directly related to the management and conservation of fishery resources, including enforcement measures:

- 1982 United Nations Convention on the Law of the Sea (UNCLOS)
- 1995 United Nations Fish Stocks Agreement (UNFSA)
- 1993 FAO Compliance Agreement
- 2009 Port State Measures Agreement (PSMA).

The 1982 United Nations Convention on the Law of the Sea (UNCLOS), which is considered to be the "Constitution for the Oceans," provides the general legal framework for the regulation of all activities in the oceans and seas, including fishing activities. However, UNCLOS did not manage to prevent the overexploitation of some fish stocks and other problems, such as unregulated fishing, vessels reflagging or the lack of cooperation between states.

For this reason, the 1992 United Nations Conference on Environment and Development (UNCED) called for the development of further instruments, resulting in the 1995 United Nations Fish Stocks Agreement (UNFSA) and further instruments developed under the auspices of the Food and Agriculture Organization of the United Nations (FAO), such as the 1993 FAO Compliance Agreement. The 2009 Port State Measures Agreement was later adopted by FAO to strengthen the role played by port States against IUU fishing. These four instruments are legally binding on their contracting parties.

At the same time, the United Nations General Assembly passed a series of three resolutions from 1989 to 1991 calling on the international community to impose a global moratorium on large-scale pelagic driftnet fishing on the high seas unless and until effective conservation and management measures could be imposed to prevent the unacceptable impact of such fishing practices, and to ensure the conservation of the living marine resources of the world's oceans and seas.

The FAO Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), while non-legally binding, provide additional tools for addressing fisheries-related crimes.

2.1.1.1 United Nations Convention on the Law of the Sea (UNCLOS)

Background on the agreement

The 1982 Convention on the Law of the Sea sets out a comprehensive legal regime and principles on the use of the oceans and their resources, including fisheries resources.

UNCLOS represents a compromise borne out of difficult and complex negotiations between the interests of coastal States, especially with regard to coastal waters rich in fisheries resources, and the interests of the international community in the conservation, exploitation and management of fisheries resources.

United Nations Convention on the Law of the Sea (UNCLOS)

Adopted: 10 December 1982
Entry into force: 16 November 1994
Status: 168 parties (See Appendix II)
Text of the convention:
www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf
Status of ratifications:
http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm
(As of December 2017)

Main provisions relevant to law enforcement cooperation in the fisheries sector

This Convention substantially modified international fisheries law by establishing two key principles: the duty to cooperate in the commercial exploitation of certain fisheries resources and the creation of the exclusive economic zone (EEZ) where coastal States have sovereign rights over fisheries resources.

The rules and principles, as well as the rights and obligations, applicable to States whose nationals are conducting fishing activities depend on the maritime zone where the fishing activity is taking place and the type of fisheries resources which are being exploited.

State jurisdiction also varies depending on the maritime zone where the offence occurs.

Provisions relating to jurisdictional matters based on maritime zone		
Zone	**Jurisdictional matters**	**Article number(s)**
Territorial Sea **< 12 nm from the baseline**	Within the territorial sea, the coastal State has full enforcement jurisdiction over all security matters and can take enforcement measures against any vessels not in innocent passage. ➢ **Criminal jurisdiction over foreign ships in passage through the territorial sea**: the coastal State may only exercise its criminal jurisdiction as regards the arrest of any person or the investigation of any matter connected with a crime committed on board ship in situations enumerated in UNCLOS. ➢ **Civil jurisdiction in relation to foreign ships**: the coastal State should not stop or divert a foreign ship passing through its territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board ship, nor levy execution against or arrest the ship, unless obligations are involved which were assumed by the ship itself in the course of, or for the purpose of, its voyage through waters of the coastal State, or unless the ship is passing through the territorial sea on its way from internal waters.	2(1) 27(1) 28
Contiguous Zone **< 24 nm from the baseline**	The contiguous zone is adjacent to the territorial sea. In this zone, the coastal State has enforcement powers over law enforcement issues regarding to customs, fiscal, immigration and sanitary laws and regulations within its territory or territorial sea.	33
Exclusive Economic Zone (EEZ) **Up to 200 nm from the baseline**	In this zone, coastal States have preeminent economic rights, especially relating to fisheries resources. UNCLOS establishes a coastal State's sovereign rights for the purpose of exploring, exploiting, conserving and managing fisheries resources, as well as jurisdiction with regard to the protection and preservation of the marine environment.	56
High Seas **Beyond 200 nm**	UNCLOS provides that a ship shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas (save in exceptional cases expressly provided for in international treaties). It is the flag State that will enforce the rules and regulations of not only its own laws but of international law as well.	92(1)

Provisions applicable to the high seas		
Category	**Provision**	**Article number(s)**
Freedom of fishing on the high seas	UNCLOS establishes the freedom of the high seas, which includes the freedom of fishing on the high seas.	87(1)(e)
Obligations of States conducting fishing activities	The freedom of fishing on the high seas is not absolute and is subject to the general obligations of conservation, management and cooperation. States' nationals have the right to engage in fishing on the high seas, but the States remain subject to their treaty obligations, the rights and duties as well as the interests of coastal States with whom their EEZs share the same stock or stocks of associated species, and the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.	116 - 120
Stateless vessels	A ship which sails under the flag of two or more States, using them according to convenience, may be assimilated to a ship without nationality.	92
Boarding and inspection* ***See text box on Boarding and inspection of stateless fishing vessels on the high seas**	Boarding of foreign ships by warships is justified if there are reasonable grounds for suspecting that: - the ship is engaged in piracy; - the ship is engaged in the slave trade; - the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under Article 109; - the ship is without nationality or; - though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship. This means that a stateless fishing vessel or a fishing vessel flying two or more flags is considered as a ship without nationally and can be boarded on the high seas. Note: UNCLOS only focuses on boarding and inspection and unless provided otherwise in the Convention (e.g. in relation to maritime piracy), the Convention does not provide regulations regarding the right of arrest or the next steps to be taken when the vessel is found to have engaged in illegal activities.	110

Hot pursuit	UNCLOS grants the power of "hot pursuit" to coastal States to enforce their fisheries laws and regulations when they have good reason to believe that a foreign ship has violated the rules and regulations of the State and the offence has been committed in the internal waters, the territorial sea, the contiguous zone or the EEZ of the State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.	111

Provisions applicable to the Exclusive Economic Zone (EEZ)		
Category	**Provision**	**Article number(s)**
Duty to cooperate in the conservation of fish stocks	For fish stocks that move between two or more EEZs, UNCLOS requires cooperation between coastal States to agree on measures to conserve and develop these stocks, either directly or through an appropriate regional organization. For fish stocks that are harvested both in an EEZ and in the adjacent area of the high seas, the coastal State and the States fishing for such stocks shall seek to agree on conservation measures for these stocks in the adjacent area through an appropriate regional organization. For highly migratory fish stocks, the coastal State and other States fishing such species in the region shall cooperate directly or through an organization, in order to ensure the conservation and the optimum utilization of such species throughout the region, both within and beyond the EEZ.	63(1) 63(2) 64(1)
Boarding and inspections	The coastal State may board, inspect, arrest and conduct judicial proceedings against vessels to ensure compliance with the laws and regulations adopted by it in conformity with the Convention.	73(1)
Prompt release	In case of arrest of a vessel by a coastal State, UNCLOS provides that the arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.	73(2)
Imprisonment	UNCLOS explicitly prohibits imprisonment, or any form of corporal punishment, for captains and crew of foreign vessels fishing illegally, without an agreement to the contrary by the States concerned.	73(3)* *See box on Academic Interpretation of article 73 (3) of UNCLOS

Boarding and inspection of stateless fishing vessels on the high seas

According to UNCLOS Art. 92, a vessel is considered stateless if:

- It does not sail under any flag; or
- It sails under the flag of two or more States.

In these cases, the fishing vessel is considered without nationality and can be boarded on the high seas (Art. 110).

Because an increasing number of fishing vessels conducting illegal fishing activities on the high seas are stateless, these articles could be used more often as a legal basis for boarding and inspecting stateless vessels.

However, UNCLOS only focuses on boarding and inspection and does not provide regulations regarding the right of arrest or the next steps to be taken when the vessel is found to have engaged in illegal activities.

Academic interpretation of Article 73(3) of the UNCLOS

The general prohibition on including imprisonment and corporal punishment as a penalty for a fisheries offence, as established by article 73(3) of UNCLOS, does not necessarily prevent coastal States from imprisoning foreign fishers who conduct illegal fishing operations. (Malcom BARRETT, "Illegal Fishing in Zones Subject to National Jurisdiction," 5 *James Cook University Law Review* 1, 1998, pp. 14-15.)

Illegal fishers could face imprisonment in two situations. First, the coastal State and a flag State may enter into an agreement, which allows for this type of penalty for violations of fisheries laws. Secondly, imprisonment as a form of punishment may be imposed against fishers who violate other coastal State's laws, but the prompt release requirements may mean that such fishers may never be in the jurisdiction to serve the sentence. (BARRETT, pp.15-16.)

In practice, not all States comply with the prohibition of imprisonment as a form of punishment for foreign fishers. State practice has revealed that the imposition of a prison term is seen as an effective deterrent which reduces the need for high-cost surveillance and enforcement. (Barbara KWIATKOWSKA, *The 200 Mile Exclusive Economic Zone in the New Law of the Sea*, Martinus Nijhoff Publishers, London, 1989, n.13, p.87.)

The following countries have included imprisonment provisions, or potential for imprisonment penalties in their EEZ laws: Antigua and Barbuda, Bangladesh, Barbados, Burma (Myanmar), Cape Verde, Grenada, Guinea-Bissau, India, Maldives, Mauritius, Nigeria, Niue, Pakistan, Philippines, Portugal, Senegal, Seychelles, Suriname, Tanzania, Vanuatu and Yemen. (J. Ashley ROACH, Robert W. SMITH, *Excessive Maritime Claims*, Martinus Nijhoff Publishers, London, 2012, p.176. See also, UNGA, Report of the Secretary General, A/47/512, 5 November 1992, paragraph 36, p.10.)

2.1.1.2 United Nations Fish Stocks Agreement (UNFSA)

Background on the Agreement

The 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, known more simply as the United Nations Fish Stocks Agreement, was adopted to implement the provisions of UNCLOS. As its full title suggests, its field of application is restricted to straddling stocks and highly migratory species.

The Agreement builds on the fundamental principle that States should cooperate with regional fisheries management organisations (RFMOs) or regional fisheries agreements when conducting fishing activities for certain stocks and species. It also establishes an innovative principle regarding reciprocal boarding and inspection on the high seas.

United Nations Fish Stocks Agreement (UNFSA)

Adopted: 4 August 1995
Entry into force: 11 December 2001
Status: 85 parties (See Appendix II)
Text of the Agreement:
www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf
Status of ratifications:
http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm
(As of December 2017)

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Fishing restrictions	The UNFSA restricts access to high seas fisheries resources to certain States. It establishes the principle that only the States which are members of regional fisheries management organizations (RFMOs) or arrangements, or which agree to apply the conservation and management measures established by such organizations or arrangements, shall have access to the fishery resources to which those measures apply.	8(4)
Duty to cooperate through RFMOs or arrangements	A State party to this Agreement, which is not a member of an RFMO, nor a participant to an arrangement, or a cooperating member to a RFMO, shall not authorize vessels flying its flag to engage in fishing operations for straddling or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.	17(2)
Exchange of information on non-members to RFMOs	A State party to this Agreement, which is a member of such organization or participant in such arrangements, shall exchange information with respect to the activities of fishing vessels flying the flags of States which are non-members of organizations or non-participants in the arrangements and which are engaged in fishing operations for the relevant stocks.	17(4)
Deterrent measures against non-members to RFMOs	Parties are encouraged to take measures consistent with this Agreement and with international law to deter activities of vessels flying the flags of States which are non-members of organizations or non-participants in the arrangements and which are engaged in fishing operations for the relevant stocks, which undermine the effectiveness of subregional or regional conservation and management measures. These measures may include, for instance, the adoption of Illegal, Unreported and Unregulated (IUU) vessel lists by States or through RFMOs, high seas boarding and inspection measures, trade restrictions or port state measures.	17(4)
Duties of the flag state to respect RFMO measures	The UNFSA encourages its parties to take measures to ensure that vessels flying their flags which are fishing on the high seas comply with subregional and regional conservation and management measures and that they do not engage in any activity which undermines the effectiveness of such.	18(1)

Compliance and enforcement	The flag State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. Sanctions applicable in respect of violations shall be adequate in severity and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit for instance, refusal, withdrawal or suspensions of authorizations to serve as masters or officers on such vessels.	19(1) 19(2)
International cooperation in enforcement	International cooperation in enforcement shall be undertaken either directly or through subregional or regional fisheries management organizations or arrangements to ensure compliance and enforcement of conservation and management measures.	20
Reciprocal boarding and inspections	The Agreement establishes a framework for reciprocal boarding and inspection of vessels in the high seas under certain circumstances. Under this framework, in any high seas area covered by a RFMO, subregional organization or arrangement, a State Party to the UNFSA which is a member of such organization or participant in such arrangement may through its inspectors, board and inspect fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement.	21, 22 21(1)
Port state measures	The UNFSA encourages port States to inspect documents, fishing gear and catch on board fishing vessels when such vessels are voluntarily in its ports or at its offshore terminals. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas. Contrary to high seas boarding and inspections, port controls can be done by States not party to RFMOs or arrangements.	23(2) 23(3)

The UNFSA as a legal basis for international cooperation in enforcement

Several principles set forth in the Agreement could serve as a legal basis for international cooperation in enforcement.

1. Fishing activities in high seas areas managed by an RMFO are restricted to its members and cooperating non-members[58]

The Agreement creates a paradigm shift in the exploitation of high seas fisheries resources by establishing that State Parties to the Agreement involved in harvesting stocks that are managed by an RFMO must become a member or a cooperating non-member, or refrain from fishing on the high seas areas under the RFMO's jurisdiction (Art. 8).

This means that a fishing vessel flying the flag of a party to the UNFSA agreement which is fishing in a high seas area managed by an RFMO without being a member or a cooperating non-member to this RFMO is fishing illegally.

2. Non-flag state enforcement on the high seas

Non-flag State enforcement on the high seas is established for vessels of State parties to the UNFSA (Art. 21(1)). It can also be provided for by the measures of the RFMO.

In practice, this means that if a fishing vessel, which is not a member of an RFMO, nor a cooperating non-member to an RFMO, is identified as conducting fishing activities in the high seas area under an RFMO jurisdiction, it can be boarded and inspected by a non-flag State which is a party to the UNFSA.

3. High seas boarding and inspection procedure

The procedure for high seas boarding and inspection by a non-flag State is described in Article 22. It includes that the inspecting State shall ensure that the inspection is conducted by duly authorized inspectors and that the flag State shall be informed of the inspection (Art. 22(1)).

Where following a boarding and inspection there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures adopted by an RFMO, the inspecting State shall secure evidence and shall promptly notify the flag State of the alleged violation (Art. 21(5)).

The flag State then has three days to say whether it will take measures itself and inform the investigating State or authorize the inspecting State to investigate (Art. 21(6)).

Where following boarding and inspection, there are clear grounds to believe that a vessel has committed a serious violation (as defined in Art. 21(11)), and that the flag State has either failed to respond or failed to take action, the inspectors may remain on board to secure evidence and may bring the vessel to the nearest port. The inspecting State shall inform the flag State of the name of the port (Art. 21(8)).

[58] See the Glossary for further information on the definition of a "Cooperating Non-Member."

2.1.1.3 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement)

Background on the Agreement

The 1993 Food and Agriculture Organization of the United Nations (FAO) Compliance Agreement is the first internationally binding instrument dealing directly with reflagging and other flag State responsibility issues.

It focuses on flag State compliance issues with applicable conservation and management rules for fishing activities on the high seas and on strengthening flag State responsibility.

In contrast to the UNFSA, the field of application of this Agreement is not restricted to straddling stocks and highly migratory fish stocks, but rather applies to all species.

FAO Compliance Agreement

Approved: 24 November 1993
Entry into force: 24 April 2003
Status: 40 parties (See Appendix II)
Text of the Agreement:
www.fao.org/fileadmin/user_upload/legal/docs/012t-e.pdf
Status of ratifications:
https://treaties.un.org/pages/showDetails.aspx?objid=080000028007be1a
(As of December 2017)

This Agreement has, however, not been widely accepted: it entered into force 10 years after its conclusion and has been ratified by only 40 parties as of the date of this publication.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Flag State responsibility	Each Party shall take measures to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.	III.1.a
Restrictions on the granting of flags to IUU vessels	The Agreement provides that a Party shall not authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas unless certain conditions are satisfied.	III.5.a
Record of fishing vessels	The Agreement encourages its parties to maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas.	IV
International cooperation	Parties are encouraged to exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flags reported to have engaged in activities undermining global, regional and subregional fisheries measures. Port states shall notify the flag State when one of its vessels suspected of undermining fisheries regulations is voluntary in the port of a Party other than its flag State. Arrangements shall be made to undertake investigatory measures. The Agreement requires parties to maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas.	V V VI
Exchange of information	The Agreement requires that certain information shall be readily available to the FAO regarding vessels entered in the record of fishing vessels (i.e.: name of fishing vessel, registration number, previous names, port of registry, previous flag, international radio call sign, name and address of owner(s), where and when it was built, type of vessel, length, etc.). The FAO shall circulate information about these fishing vessels, subject to restrictions imposed by the Party concerned to any global, regional or subregional fisheries organization.	VI.1 VI.4

2.1.1.4 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement)

Background on the Agreement

The 2009 FAO Port State Measures Agreement is a legally binding international instrument. It entered into force on 5 June 2016.

Port State Measures Agreement (PSMA)

Approved: 22 November 2009
Entry into force: 5 June 2016
Status: 51 parties (See Appendix II)
Text of the Agreement:
http://www.fao.org/documents/card/en/c/915655b8-e31c-479c-bf07-30cba21ea4b0/
Status of ratifications:
www.fao.org/fileadmin/user_upload/legal/docs/037s-e.pdf
(As of December 2017)

The Agreement was designed to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures and thereby ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. This agreement is also an important tool in discouraging the use of ports of convenience.

The intention of this instrument is that it will be applied by Parties, in their capacities as port States, to vessels not entitled to fly their flags. It will apply to these vessels when they seek entry to Parties' ports or while they are in port. The Agreement includes a particular section emphasizing the requirements of developing countries to support their efforts to implement the Agreement.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Cooperation and exchange of information	The Agreement encourages Parties to cooperate and exchange information with relevant States, FAO, other international organizations and RFMOs.	6
Conditions of entry into ports	Parties to this agreement may request entry into ports which are designated by port States. Prior to entering a designated port, a party to this Agreement shall make an advance request for entry by providing specific information about their vessels.	7(1) 8
Denial of entry to IUU fishing vessels	If a vessel has engaged in IUU fishing, or fishing-related activities in support of such fishing, a port State may deny entry to such a vessel. A port State may allow entry into its port of such vessel for the purpose of inspecting it and taking other appropriate actions in conformity with international law.	9(1) 9(5)
Restrictions to the use of ports for IUU fishing vessels	The Agreement provides for a number of situations where a Party can deny the use of its ports for landing, transshipping, packaging, and processing of fish that have not been previously landed and for other port services, including refuelling and resupplying, maintenance and dry-docking, if it finds that the vessel which has entered its port has been involved in IUU fishing-related activities. These restrictions do not apply if the use of port services is essential to the safety or health of the crew, the safety of the vessel or where appropriate, for the scrapping of the vessel.	11(1) 11(2)
Inspections and follow-up actions	The PSMA provides that each Party shall inspect annually a certain number of vessels based on their levels and priorities for inspection; minimum standards for the conduct of inspections are detailed in the Agreement.	12-13
Role of flag States	When a Party to the Agreement has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or related activities and is seeking entry to or is in the port of another State, it shall request that State to inspect the vessel or to take other measures. Where following port inspection a flag State Party receives an inspection report indicating that there are clear grounds to believe that one of its vessels has engaged in IUU fishing or related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.	20(2) 20(4)

Using the PSMA to increase inspections and gather evidence

The PSMA is the most recent fisheries-related instrument, which entered into force in order to combat IUU fishing. The goal of this instrument is to establish "port controls" rather than "at sea controls," which are more complex to organize and more costly to operate.

So far, the PSMA has been used to deny entry into ports, following the identification of IUU fishing or related activities in support of such fishing, rather than to identify IUU vessels and/or activities.

From a law enforcement perspective, this Agreement (and particularly Article 9(5)) could also be used to allow vessels identified as having engaged in IUU fishing or related activities to enter into ports for the purpose of inspection while at the same time denying such vessel the use of the port services, except in the case of *force majeure*.

Allowing entry into ports for the purpose of inspection would be particularly useful from a law enforcement perspective since it would help gather evidence on these types of activities to better understand the networks behind them.

2.1.1.5 United Nations Large-Scale Pelagic Driftnet Fishing Moratorium

The United Nations General Assembly passed a series of three resolutions from 1989 to 1991 calling on the international community to impose a global moratorium on large-scale pelagic driftnet fishing on the high seas unless and until effective conservation and management measures to prevent unacceptable impact of such fishing practices and to ensure the conservation of the living marine resources of the world's oceans and seas could be put into place.

United Nations Large-Scale Pelagic Driftnet Fishing Moratorium

Adopted: 22 December 1989, 21 December 1990, 20 December 1991
Entry into force: N/A
Status: N/A
Text of the Resolutions:
http://www.un.org/documents/ga/res/44/a44r225.htm
http://www.un.org/documents/ga/res/45/a45r197.htm
http://www.un.org/documents/ga/res/46/a46r215.htm
Status of ratifications: N/A

Background on the Moratorium

The UN General Assembly passed A/RES/44/225 in 1989, calling upon the international community to strengthen cooperation in the conservation and management of living marine resources, through the placement of moratoria on all large-scale pelagic driftnet fishing by 30 June 1992 and the collection and review of scientific data on the impact of large-scale pelagic driftnet fishing.

In 1990, the UN passed A/RES/45/197 calling for full implementation of the prior resolution by all members of the international community. In the final resolution in the series in 1991, A/RES/46/215, the UN again called for implementation of the prior two resolutions by the international community through a 50 per cent reduction in large-scale pelagic high seas drift-net fishing efforts by 30 June 1992 and continuing to ensure that the areas of operation of large-scale pelagic high seas drift-net fishing are not expanded and, beginning on 1 January 1992, are further reduced, with a full global moratorium on all large-scale pelagic drift-net fishing to be fully implemented on the high seas by 31 December 1992.

Relevance to law enforcement cooperation in the fisheries sector

Contemporaneous with the passage of these resolutions, 16 countries ratified the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which directs signatories to take appropriate measures to enforce the prohibition of nationals and flag vessels from engaging in driftnet fishing activities within the Convention Area and to collaborate to facilitate surveillance and the enforcement of measures.

Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific

Adopted: 29 November 1989
Entry into force: 17 May 1991
Status: 16 Parties
Text of the resolution:
http://www.treaties.mfat.govt.nz/search/details/t/1877
Status of ratifications:
http://www.treaties.mfat.govt.nz/search/details/t/1877
(As of December 2017)

Additionally, a number of countries have enacted national legislation to enforce the provisions. Some countries have also incorporated criminal sanctions as part of the enforcement legislation, including the Federated States of Micronesia[59] and Australia.[60]

[59] The full text of the law is available at http://fsmsupremecourt.org/fsm/code/title24/T24_Ch05.htm.
[60] The full text of the law is available at http://www.aic.gov.au/media_library/publications/rpp/109/rpp109.pdf.

2.1.1.6 FAO Code of Conduct for Responsible Fisheries

The adoption of non-legally binding instruments is a recent trend in international fisheries management. The purpose of these instruments is to guide States in establishing sustainable fisheries conservation and management measures, as well as tools for combatting IUU fishing. As part of these efforts, FAO developed a Code of Conduct for Responsible Fisheries.

FAO Code of Conduct for Responsible Fisheries

Adopted: 31 October 1995
Entry into force: N/A
Status: N/A
Text of the Code: http://www.fao.org/docrep/005/v9878e/v9878e00.htm
Status of ratifications: N/A

Background on the Code

The 1995 Code of Conduct for Responsible Fisheries is a voluntary instrument adopted under the auspices of the FAO. It covers fishing activities both within and beyond zones of national jurisdiction.

The Code provides principles and standards applicable to the conservation, management and development of all fisheries.

It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Fisheries management	The Code encourages States which are not members of a RFMO or are not participants in a regional fisheries agreement to cooperate in accordance with international agreements and international law in the conservation and management of fisheries resources by giving effect to any conservation and management measures adopted by such organizations or arrangements. It encourages States to establish effective mechanisms for fisheries monitoring, surveillance, control and enforcement, in order to ensure compliance with their conservation and management measures, as well as those adopted by RFMOs and regional fisheries arrangements.	7.1.5 7.1.7
Implementation	It encourages States to ensure that laws and regulations provide for sanctions applicable in respect of violations. Punishment for violations could include the refusal, withdrawal or suspensions of authorizations to fish in the event of non-compliance with conservation and management measures in force. States shall also implement effective fisheries monitoring, control, surveillance and law enforcement measures including observer programmes, inspection schemes and vessels monitoring systems.	7.7.2 7.7.3
Flag State duties	Flag States should ensure that no fishing vessels entitled to fly their flag fish on the high seas or in waters under the jurisdiction of other States unless such vessels have been issued with a certificate of registry and have been authorized to fish by the competent authorities. Flag States should take enforcement measures in respect of fishing vessels entitled to fly their flags which have been found by them to have contravened applicable conservation and management measures, including, where appropriate, making the contravention of such measures an offence under national legislation. Sanctions should be severe enough to discourage violations and should deprive offenders of the benefits accruing from their illegal activities. Sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish.	8.2.2 8.2.7
Port State duties	Port States should provide assistance to flag States as appropriate when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety and health conditions of work on board of fishing vessels.	8.3.2

The FAO Code of Conduct and the subsequent International Plans of Action (IPOAs)

Under the framework of the Code of Conduct and its overall objective of sustainable fisheries, the FAO has developed a series of four voluntary plans of action:

- International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds);
- International Plan of Action for the Conservation and Management of Sharks (IPOA-Sharks);
- International Plan of Action for the Management of Fishing Capacity (IPOA-Capacity); and
- International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) (see Chapter 2.1.1.7 below).

2.1.1.7 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)

Background on the Plan of Action

The 2001 IPOA-IUU is a voluntary instrument developed within the framework of the FAO Code of Conduct for Responsible Fisheries.

The objective of the IPOA-IUU is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective, and transparent measures by which to act, including through appropriate RFMOs established in accordance with international law.

The IPOA-IUU is presented by FAO as a toolbox which includes a set of basic tools available for use by States to combat IUU fishing.

International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)

Endorsed: 23 June 2001
Entry into force: N/A
Status: N/A
Text of the Plan:
http://www.fao.org/docrep/003/y1224e/y1224e00.htm
Status of ratifications: N/A

The IPOA-IUU calls for States to ensure that sanctions for IUU fishing by vessels are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing. It also mentions that States may include the adoption of a civil sanction regime based on an administrative penalty scheme (Para. 21). Of note, no reference is made to encourage States to adopt criminal sanction regimes against these types of activities.

National and Regional Plans of Action
Based on the IPOA-IUU, several countries have developed their own National Plans of Action (NPOA) or Regional Plans of Action (RPOA) which adapt the IPOA-IUU to their particular situations in order to combat IUU fishing. For instance, the United States, Australia, Canada, Thailand, Malaysia, Namibia, Sri Lanka, Brunei, Korea, Vanuatu and Benin have all adopted their own NPOAs. A Regional Plan of Action (RPOA) against IUU fishing has also been adopted in Southeast Asia (see Chapter 2.2.2.4**)**.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Paragraph number(s)
All State responsibilities	State responsibilities include provisions relating to: - International instruments - National legislation (State control over nationals; vessels without nationality; sanctions; non-cooperating States; economic incentives; monitoring, control and surveillance) - National plans of action - Cooperation between States - Publicity - Technical capacity and resources.	 10-15 16-24 25-27 28-31 32 33
Flag State responsibilities	Flag State responsibilities include provisions relating to: - Fishing vessel registration - Record of fishing vessels - Authorization to fish.	 24-41 42-43 44-50
Coastal State measures	Coastal States, in exercising their sovereign rights over fisheries resources in their EEZ, shall implement measures to prevent IUU fishing such as: - Effective monitoring, control and surveillance of fishing activities in the EEZ - Cooperation and exchange of information with other States - Ensuring that vessels undertaking fishing activities in the EEZ have a valid authorization, are entered on a record of vessels and maintain a logbook - Ensuring the regularity of at-sea transshipment and processing of fish and fish products - Regulating fishing access to their waters in a manner that prevents, deters and eliminates IUU fishing - Avoiding licensing a vessel to fish in their waters if it has a history of IUU fishing.	51
Port State measures	The IPOA-IUU encourages States to use measures, in accordance with international law, for port State control of fishing vessels in order to prevent, deter and eliminate IUU fishing.	52-64
Internationally-agreed market State measures	The Plan encourages States to take all steps necessary, consistent with international law, to prevent fish caught by vessels identified by the relevant RFMOs to have been engaged in IUU fishing being traded or imported into their territories.	65-76
Measures to be implemented through RFMOs	States shall ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant RFMO and by which they are bound.	78

Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)
ITLOS Case 21

The International Tribunal for the Law of the Sea (ITLOS) delivered its advisory opinion on the Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC) on 2 April, 2015.

The SRFC is a regional fisheries body established in 1985, comprising seven West African countries. Its area of competence comprises the territorial waters and EEZs of its member States.

IUU fishing is a serious problem in this region and has had a severe impact on SRFC members.

In this context, the SRFC submitted four questions, principally regarding the obligations and liability of flag States for IUU fishing by their vessels in the EEZ of another State.

Notably, the Tribunal emphasized that "the duty to cooperate is a fundamental principle in the prevention of pollution of the marine environment under Part XII of [UNCLOS] and general international law."

Question 1: What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the Exclusive Economic Zones of third party States?

- The Tribunal considered that the obligation of a flag State not party to a Convention on the Minimal Conditions for Access to Marine Resources, such as the SRFC Convention, is a due diligence obligation to ensure the vessels flying its flag are not involved in IUU fishing.

Question 2: To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?

- The liability of the flag State arises from the failure to comply with its own "due diligence obligations" to ensure that vessels flying its flag do not conduct IUU fishing activities in the EEZ of the coastal State. The liability of the flag State does not arise from a failure of vessels flying its flags to comply with the applicable laws and regulations.

Question 3: Where a fishing license is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or the international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?

- This question concerned the European Union. The conclusions of Question 2 apply when it comes to flag State liability. The Tribunal also considered that only the international organization can be held liable for any breach of obligations arising from fisheries access agreement, and not its member States.

Question 4: What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

- The Tribunal recalled that coastal States have the obligation to cooperate in the management of fisheries, especially regarding to articles 61(2), (3), (4) and 63(1) of UNCLOS.

Available at https://www.itlos.org/en/cases/list-of-cases/case-no-21/.

2.1.2 International treaties to counter crimes connected to the fisheries sector

Fisheries crimes do not solely consist of fisheries offences such as illegal fishing. A number of other types of crimes are connected to the fisheries sector. These crimes include corruption, drug trafficking, human smuggling and even pollution crimes.

Several international treaties focus on these issues and establish principles, rules, regulations and frameworks to address these fisheries-related crimes.

When applied in a complementary manner to fisheries treaties or treaties related to fisheries, they provide national authorities with a more integrated approach to combating crimes in the fisheries sector by offering the tools to address ancillary criminal conduct. For instance, some of the legal frameworks established by these instruments could be used by their parties to confiscate and seize assets, extradite, or provide for legal assistance mechanisms.

The following international treaties addressing fisheries related crimes will be discussed in this subchapter:

- United Nations Convention against Transnational Organized Crime (UNTOC)
- United Nations Convention against Corruption (UNCAC)
- Convention Concerning Work in the Fishing Sector (ILO Convention No. 188)
- Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention)
- International Convention on Arrest of Ships
- International Convention for the Prevention of Pollution from Ships (MARPOL)
- International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention).

2.1.2.1 United Nations Convention against Transnational Organized Crime (UNTOC)

Background on the Convention

The 2000 UNTOC is the first global legally-binding instrument with the purpose of promoting more effective cooperation in the prevention of transnational organized crime.

The convention applies to serious crimes, which it defines as transnational offences involving an organized criminal group.

United Nations Convention against Transnational Organized Crime (UNTOC)

Adopted: 15 November 2000
Entry into force: 29 September 2003
Status: 189 parties (See Appendix II)
Text of the Convention:
https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf
Status of ratifications:
https://treaties.un.org/PAGES/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en
(As of December 2017)

Main provisions relevant to fisheries-related crimes

As previously mentioned, fisheries crimes are often transnational and organized in nature. Therefore, UNTOC is a possible legal framework for connecting IUU fishing and fisheries crimes to organized crimes.

Moreover, State parties to UNTOC can employ the mutual legal assistance or extradition arrangements under UNTOC to facilitate criminal investigation and prosecution of transnational organized fisheries crime where bilateral agreements are not used.

UNTOC is further supplemented by three Protocols which target specific areas and manifestations of organized crime, regarding human trafficking, migrant smuggling and arms trafficking. These Protocols could also be used to target crimes connected to the fisheries sector.

UNTOC Protocol		Entry into force	Parties
Human trafficking	**Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** Status of ratifications: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&clang=_en (as of December 2017)	25 December 2003	172
Migrant smuggling	**Protocol against the Smuggling of Migrants by Land, Sea and Air** Status of ratifications: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-b&chapter=18&lang=en (as of December 2017)	28 January 2004	146
Arms trafficking	**Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition** Status of ratifications: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-c&chapter=18&lang=en (as of December 2017)	3 July 2005	115

Main provisions relevant to law enforcement cooperation for fisheries-related crimes

Category	Provision	Article number(s)
Scope of application	The scope of application of the convention concerns all "serious crimes" committed by organized criminal groups acting transnationally. - An "organized criminal group" is defined as a "structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit." - "Serious crimes" are defined as offences punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. - An offence is considered "transnational" if: "(a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State." States that have ratified UNTOC are required to ensure that four serious types of crime are regarded as criminal offences in their domestic laws. These "serious crimes" are: - participation in an organized criminal group - money laundering - corruption - obstruction of justice.	2(a) 2(b) 3(2) 5 6 8 23
Liability of legal persons	UNTOC requires State parties to hold legal persons liable, whether criminally, civilly or administratively for participation in serious crimes involving an organized criminal group and for "serious crimes."	10
Confiscation and seizure	It outlines a broad legal framework for the identification, tracing, freezing and confiscation of proceeds of crime derived from offences, property, equipment or other instrumentalities.	12
Extradition	The Convention provides for a comprehensive legal framework for the extradition of offences covered by the Convention.	16

Mutual legal assistance	UNTOC provides for a comprehensive legal framework for establishing mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention. In urgent circumstances, INTERPOL's channels may be used for the communication of MLA requests.	18 18(13)
Investigations	The treaty also encourages State parties to set up joint investigations teams and utilize special investigative techniques through bilateral or multilateral agreements or arrangements.	19-20
Transfer of criminal proceedings	State Parties are required to consider the possibility of transferring proceedings for the prosecution of an offence, in particular in cases where several jurisdictions are involved.	21
Law enforcement cooperation	UNTOC encourages States to cooperate closely with one another to enhance the effectiveness of law enforcement action to combat the offences covered by the Convention, such as by: - Establishing channels of communication between their competent authorities; - Cooperating in the conduct of inquiries; - Exchanging information; - Coordinating administrative measures.	27

The application of UNTOC in the context of fisheries crime and connected crimes

Several offences listed under UNTOC and its protocols occur in the fisheries sector, such as:

- participation in an organized criminal group
- corruption
- money laundering
- obstruction of justice
- human trafficking
- migrant smuggling
- illicit manufacture and trafficking in firearms.

The offence of obstruction of justice was identified in practice in the case studies cases analysed in Chapter 4 of this Guide.

From a law enforcement perspective, this means that when these types of crimes, along with "serious crimes," are identified in fisheries crimes or connected crimes cases, and that the States involved are parties to UNTOC, the procedural regime for extradition and mutual legal assistance set out in the Convention, along with other relevant provisions relevant to law enforcement could be applied.

Model legislative provisions against organized crime

The United Nations Office on Drugs and Crime (UNODC) has designed various tools in the form of model legislative provisions, model treaties and manuals to assist States with the establishment of mutual legal assistance:

- Legislative Guides for the United Nations Convention against Transnational Organized Crime and the Protocols thereto (2004):
  http://www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf

- Model Law on Mutual Assistance in Criminal Matters (2007):
  https://www.unodc.org/pdf/legal_advisory/Model%20Law%20on%20MLA%202007.pdf

- Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, as amended by General Assembly resolution 52/88):
  https://www.unodc.org/pdf/model_treaty_mutual_assistance_criminal_matters.pdf

- Manual on Mutual Legal Assistance and Extradition (2012):
  https://www.unodc.org/documents/organized-crime/Publications/Mutual_Legal_Assistance_Ebook_E.pdf

Legislative database (SHERLOC)

UNODC has developed a database of legislation containing national laws against organized crime through its Sharing Electronic Resources and Laws on Crime (SHERLOC).

The database can be can be searched by country, UNTOC articles, crime type, liability of legal persons, investigative procedure, country-specific procedural aspects, jurisdiction, international cooperation, regulatory provisions and measures to protect witnesses and victims.

Available at https://www.unodc.org/cld/v3/sherloc/

2.1.2.2 United Nations Convention against Corruption (UNCAC)

Background on the Convention

The 2003 UNCAC was adopted one month after the entry into force of UNTOC and complements UNTOC's basic provisions on corruption.

UNCAC is a legally-binding instrument which establishes new standards and provisions to tackle corruption, and calls for preventive measures and the criminalization of the most prevalent forms of corruption in both the public and private sectors.

UNCAC also introduces a new framework for effective action and international cooperation between States in investigations of and proceedings in civil and administrative matters relating to corruption. It contains extensive provisions on asset recovery.[61]

United Nations Convention against Corruption (UNCAC)

Adopted: 31 October 2003
Entry into force: 14 December 2005
Status: 183 parties (See Appendix II)
Text of the Convention:
https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
Status of ratifications:
https://treaties.un.org/PAGES/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-14&chapter=18&clang=_en
(As of December 2017)

Link to fisheries

As previously mentioned in Chapter 1.1.2, there are various forms of corruption in the fisheries sector; it can take place throughout all phases of the illegal fishing supply chain. Corruption can, for instance, play a role in the process of obtaining fishing licenses or meeting fishing quotas. Bribery of public officials can also be used to cover violations or avoid inspections.

When parties to this Convention are involved in such crimes in the fisheries sector, relevant UNCAC provisions can be applied.

[61] See the Glossary for further information on the definition of "asset recovery."

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Scope of application	The scope of application of the convention is broader than UNTOC and applies to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established by the Convention.	3
Criminalization	UNCAC sets forth various type of conduct which State parties are either: - Required to criminalize: ○ bribery of public officials ○ active bribery of foreign public officials ○ embezzlement ○ laundering of proceeds of crime ○ obstruction of justice ○ participation as an accomplice, assistant or instigator. - Or, to consider for criminalization: ○ passive bribery of foreign public officials ○ trading in influence ○ abuse of functions ○ illicit enrichment ○ bribery in the private sector ○ embezzlement in the private sector ○ concealment ○ attempt and preparation.	 15 16(1) 17 23 25 27(1) 16(2) 18 19 20 21 22 24 27(2)-(3)
Extradition	The Convention provides for a comprehensive legal framework for the extradition of offences covered by the Convention.	44
Transfer of sentenced persons	Encourages State parties to enter into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.	45
Mutual legal assistance	UNCAC provides for a comprehensive legal framework for its parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention. In urgent circumstances, INTERPOL's channels may be used for the communication of MLA requests.	46 46(13)

Transfer of criminal proceedings	State parties shall consider the transfer of criminal proceedings in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved with a view to concentrating the prosecution.	47
Law enforcement cooperation	UNCAC encourages States to cooperate closely with one another to enhance the effectiveness of law enforcement action to combat the offences covered by the Convention, such as by: - Establishing channels of communication between their competent authorities; - Cooperating in the conduct of inquiries; - Exchanging information; - Coordinating administrative measures.	48
Investigations	Encourages State parties to set up joint investigations teams and utilize special investigative techniques through bilateral or multilateral agreements or arrangements.	49-50
Asset recovery	Sets forth extensive provisions on asset recovery. To this end, State Parties are encouraged to conclude bilateral or multilateral agreements and arrangements.	51-58 59
Exchange of information	Expects State Parties to develop and share with each other, and through international and regional organizations, information on corruption as well as best practices to prevent and combat corruption.	61

UNCAC legal resources and materials

Several legal resources and materials have been developed to facilitate the implementation of UNCAC Convention:

- Asset Recovery Handbook: A Guide for Practitioners (World Bank and UNODC): https://star.worldbank.org/star/publication/asset-recovery-handbook
- Legislative Guide for the Implementation of the United Nations Convention against Corruption (UNODC): https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf
- Technical Guide to the United Nations Convention against Corruption (UNODC): https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf
- Model Law to facilitate and encourage the reporting of acts of corruption and to protect whistleblowers and witnesses (Organization of American States – OAS): www.oas.org/juridico/english/draft_model_reporting.pdf
- Legal Library against Corruption (UNODC): http://www.track.unodc.org/LegalLibrary/Pages/home.aspx
- StAR Corruption Cases Database (STAR): http://star.worldbank.org/corruption-cases/

2.1.2.3 Convention Concerning Work in the Fishing Sector (ILO Convention No. 188)

Background on the Convention

This Convention entered into force in November 2017 and will boost global efforts to ensure decent work for the world's 38 million workers in the fisheries sector by establishing new labour standards.

It establishes minimum requirements with regard to work on board, conditions of service, accommodation and food, occupational health and safety (OHS) protection, medical care and social security.

The labour standards of Convention No. 188 are also designed to contribute to the protection of fishers from forced labour, human trafficking, or the exploitation of migrant labour, which take place in the fishing sector worldwide.

Convention Concerning Work in the Fishing Sector (ILO Convention No. 188)

Adopted: 14 June 2007
Entry into force: November 2017
Status: 10 parties
Text of the Convention:
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188
Status of ratifications:
http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312333
(As of December 2017)

The Convention No. 188 also includes specific provisions concerning enforcement and compliance by flag States and port States.

Link to fisheries

The ILO Convention No. 188 can be used as a tool to address issues such as safety and health, child labour and forced labour in the context of illegal fishing.

Once this Convention becomes widely accepted, it will define further what are considered to be the minimum acceptable legal standards for living and working conditions on fishing vessels, creating additional enforcement tools for use in combating illegal fishing.

For example, when checking for IUU fishing, enforcement officials might discover violations of labour standards. Alternatively, where authorities investigate evidence or complaints concerning working conditions, this could lead to the discovery of IUU fishing.

Convention highlights

Category	Provision	Article number(s)
Responsibilities	The Convention sets forth that the fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention; the skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel; fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.	8
Minimum requirements for work on board fishing vessels	The convention sets minimum requirements for work on board fishing vessels, such as the minimum age for workers and medical examination obligations.	9, 10-12
Conditions of service	The conditions of service cover manning and hours of rest (Art. 13 and 14), crew list (Art. 15), measures to be incorporated in fisher's work agreements (Art. 16 to 20), repatriation (Art. 21), recruitment and placement (Art. 22), and payment of fishers (Art. 23 and 24).	13-24
Accommodation and food	Provisions relating to decent accommodations on board fishing vessels, as well as sufficient food and potable water on board, are detailed in the Convention.	25-28
Medical care, health protection, and social security	Each member shall also adopt laws and regulations or other measures regarding the provision of medical care (Art. 29 to 30), occupational safety and health and accident prevention (Art. 31 to 33), social security (Art. 34 to 37) and protections in the case of work-related sickness, injury or death (Art. 38 and 39).	29-39
Compliance and enforcement	Flag States are to effectively exercise their jurisdiction and control over vessels that fly their flag by establishing a system for ensuring compliance with the requirements of the Convention. Port States may prepare a report addressed to the government of the flag State of the vessel and may take measures necessary to rectify any conditions on board with are clearly hazardous to safety or health.	40 43(2)

Guidelines for flag States and port States

Convention No. 188 is complemented by two sets of guidelines for flag States and port States carrying out inspections under the Convention. Both of these sets of guidelines are intended to provide flag States and port States with supplementary practical information and guidance.

- "Guidelines on flag State inspection of working and living conditions on board fishing vessels": http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_428592/lang--en/index.htm

- "Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)": http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_177245/lang--en/index.htm

2.1.2.4 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention)

Background on the Convention

The OECD Anti-Bribery Convention establishes legally-binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures to enforce these standards.

The aim of this Convention is to reduce corruption in developing countries by encouraging sanctions against bribery in international business transactions carried out by companies based in Convention member countries.

Signatories to the Convention are required to put in place legislation that criminalizes the act of bribing a foreign public official. The OECD does not have the authority to implement the convention, so the role of the OECD is instead to monitor the implementation of the Convention by participating countries.

OECD Anti-Bribery Convention

Signature: 17 December 1997
Entry into force: 15 February 1999 (a revised recommendation was adopted in 2009)
Status: 43 signatories (all OECD countries and 8 non-OECD countries)
Text of the Convention: http://www.oecd.org/corruption/oecdantibriberyconvention.htm
Status of ratifications: http://www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf
(As of December 2017)

Link to fisheries

Even though this Convention does not explicitly address illegal fishing, there is significant potential for it to assist in addressing the problem of tax crimes in the fisheries sector. In fact, in order to engage in IUU fishing or related activities, it may be necessary for would-be perpetrators to bribe a foreign official.

Convention highlights

Category	Provision	Article number(s)
Criminalization of bribery	The Convention requires its parties to criminalize the bribery of foreign public officials. The offences concerned include intentionally offering, promising or giving a bribe, or complicity in or authorization of such a bribe.	1(1)-(2)
Sanctions	The Convention establishes that the bribery of a foreign public official shall be punishable by effective proportionate and dissuasive criminal penalties and may include deprivation of liberty sufficient to enable effective mutual legal assistance and extradition.	3(1)
Jurisdiction	Under the Convention, each State party is responsible for the activities of its nationals and bribery that occurs on its own territory.	4
Mutual legal assistance	The Convention calls for parties to provide legal assistance to each other to enable investigations and proceedings.	9
Extradition	The Convention encourages parties to include bribery as an extraditable offence.	10

OECD Publication: "Evading the Net: Tax Crime in the Fisheries Sector" (OECD, 2013)

This report examines how the fisheries sector works, tax crime and other crime in the fisheries sector, and combating tax crime in the fisheries sector.

According to this report, tax crime in the fisheries sector covers a broad range of offences, including the evasion of import and export duties on fish and fish products transported across national borders; fraudulent claims for VAT repayments; failure to account for income tax on the profits from fishing activity; and evasion of income tax and social security contributions and false claims for social security benefits by fishers and their families.

This can be achieved, for example, by disguising the origin of fish, under-declaring catches, not describing correctly the species or products, hiding sales, re-invoicing frauds and missing trader fraud.

Available at http://www.oecd.org/ctp/crime/evading-the-net-tax-crime-fisheries-sector.pdf.

2.1.2.5 International Convention on the Arrest of Ships

Background on the Convention

This Convention came into force in 2011 after having been ratified by the requisite 10 countries.

Prior to this, the International Convention Relating to the Arrest of Sea-Going Ships was adopted in 1952. This was the first convention to unify and simplify the rules and grounds for ship arrests. However, as of the date of this publication, only 11 States have agreed to be bound by the Convention, and therefore its impact is relatively limited.

International Convention on the Arrest of Ships

Adopted: 12 March 1999
Entry into force: 14 September 2011
Status: 11 parties
Text of the Convention:
http://www.admiraltylawguide.com/conven/arrest1999.html
Status of ratifications:
https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XII-8&chapter=12&clang=_en
(As of December 2017)

Link to fisheries

Fishing offences are not directly mentioned under the list of claims which give rise to a ship arrest. However, a fishing vessel could be arrested if it is the subject of a maritime claim listed under Article 1.1.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Maritime claims	The Convention has a closed list of 22 maritime claims permitting the arrest of a ship. These claims include, *inter alia*: - Damage caused by the operation of the ship - Salvage operations - Damage or threat of damage caused by the ship to the environment, coastline or related interests; measures taken to prevent, minimize, or remove such damage; compensation for such damage; costs of reasonable measures of reinstatement of the environment actually undertaken or to be undertaken - Construction, reconstruction, repair of the ship; or - Wages and other sums due to the master, officers and other members of the ship's complement in respect of their employment on the ship.	1.1 1.1(a) 1.1(c) 1.1(d) 1.1(m) 1.1(o)
Power of arrest	The Convention sets out that a ship may only be arrested in respect of a maritime claim but in respect of no other claim. The decision to arrest or release from arrest a ship can only be taken under the authority of a Court of the State Party in which the arrest is effected.	2(1)-(2)
Right of arrest	The Convention lays out provisions relating to the right of arrest.	3
Application	The Convention applies to any ship within the jurisdiction of any State Party whether or not that ship is flying the flag of a State Party.	N/A

2.1.2.6 International Convention for the Prevention of Pollution from Ships (MARPOL)

Background on the Convention

The 1973 MARPOL Convention, as modified by the Protocol of 1978, was developed by IMO and aims to minimize pollution of the oceans and seas, including dumping, oil and air pollution. Its objective is to preserve the marine environment.

The 1973 MARPOL Convention and its 1978 Protocol are also complemented by six annexes, each addressing a different kind of pollution.

The MARPOL Convention applies to all ships flying the flag of, or operating under the authority of, a State party, including fishing vessels. The Convention does not apply to warships or state-owned ships used only for governmental non-commercial service (Article 3).

International Convention for the Prevention of Pollution from Ships (MARPOL)

Adopted: 17 February 1973
Entry into force: 2 October 1983
Status: 155 parties
Text of the Convention: http://library.arcticportal.org/1699/1/marpol.pdf
Status of ratifications: http://www.imo.org/fr/About/Conventions/StatusOfConventions/Pages/Default.aspx
(As of December 2017)

Link to fisheries

Pollution crimes can be committed by a fishing vessel which has been conducting illegal activities. Indeed, fishing vessels conducting fisheries crimes can be in poor condition, which can lead to pollution accidents.

This Convention could therefore serve as a legal basis to address ancillary crimes connected to the fisheries sector, by imposing fines in cases of a violation of the MARPOL Convention by a fishing vessel involved in illegal fishing.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
General obligations	The parties to the Convention, and to those Appendixes by which they are bound, agree to give effect to their provisions in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.	1
Violation	The Convention calls for the prohibition and sanction of any violation of the requirements of the Convention. It also provides that the penalties specified under the law of a Party pursuant to the present article shall be adequate in severity to discourage violations of the Convention and shall be equally severe irrespective of where the violations occur. Parties can therefore chose to impose heavy fines and penalties for MARPOL breaches.	4(1)-(3)
Detection of violations and enforcement of the convention	Parties shall cooperate in the detection of violations and the enforcement of the provisions in the detection of violations and the enforcement of the provisions. A ship to which the MARPOL Convention applies may, in any port or offshore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the Convention. A Party may also inspect a ship to which the Convention applies when it enters the ports or offshore terminals under its jurisdiction if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place.	6(1) 6(2) 6(5)

Case Study: Arrest of a fishing vessel in South Africa for violation of MARPOL Convention

On 9 September 2016, a fishing vessel from a third country was arrested by the South African Department of Agriculture, Forestry and Fisheries (DAFF) after it was spotted entering the South African EEZ.

The DAFF initially suspected that the vessel had not applied for permission to be in the area and was conducting illegal fishing in the South African EEZ. Fisheries protection vessels pursued the vessel, arrested it, and the vessel was then placed in detention at the port of Cape Town.

Following inspection, the vessel was found to be non-compliant with the MARPOL Convention and was released after it settled admissions of contravention imposed on it.

Available at https://blog.samsa.org.za/2016/09/27/arrested-taiwanese-fishing-vessel-released-from-south-africa/.

2.1.2.7 International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention)

Background on the Convention

The International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences and its amending Protocol of 1985 is one of the central legal instruments adopted by the World Customs Organization. The Convention has a number of Appendixes (see box below) and its structure allows contracting parties to accept each Appendix separately.

International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences

Enacted: 9 June 1977
Entry into force: 21 May 1980
Status: 52 parties
Text of the Convention:
http://www.wcoomd.org/en/about-us/legal-instruments/~/media/574B25F13D9C4D4BA44AB4CD50A967C5.ashx
Status of ratifications:
http://www.wcoomd.org/en/about-us/legal-instruments/conventions.aspx
(As of December 2017)

Link to fisheries

Because fisheries crimes are often transnational in nature, several administrations, such as custom administrations, can be involved in the trade of fisheries products.

Appendixes	
Appendix I	Assistance by a customs administration on its own initiative
Appendix II	Assistance, on request, in the assessment of import or export duties and taxes
Appendix III	Assistance, on request, relating to controls
Appendix IV	Assistance, on request, relating to surveillance
Appendix V	Enquiries and notifications, on request, on behalf of another Contracting Party
Appendix VI	Appearance by customs officials before a court or tribunal abroad
Appendix VII	Presence of customs officials of one Contracting Party in the territory of another Contracting Party
Appendix VIII	Participation in investigations abroad
Appendix IX	Pooling of information
Appendix X	Assistance in action against the smuggling of narcotic drugs and psychotropic substances
Appendix XI	Assistance in action against the smuggling of works of art, antiques and other cultural property

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Scope	Parties agree that their customs administrations shall afford each other mutual assistance with a view to preventing, investigating and repressing customs offences, in accordance with the provisions of this Convention. Requests for mutual assistance may be demanded in the course of any investigation or in connection with any judicial or administrative proceedings being undertaken by that contracting party.	2(1) 2(2)
Limitations	If a party considers that the assistance sought would infringe upon its sovereignty, security or other substantial national interests of any enterprise, public or private, it may decline to provide that assistance.	3
General assistance procedures	Provisions regarding general assistance cover the communication of intelligence, documents, or other information, as well as requests for assistance.	5-8
Cooperation through INTERPOL	The Permanent Technical Committee of the Council shall, under the authority of the Council and in accordance with any directions given by the Council, maintain relations with the other international organizations concerned and, in particular, with the competent bodies of the United Nations, with UNESCO **and with the International Criminal Police Organization/INTERPOL**, with regard to action against illicit traffic in narcotic drugs and psychotropic substances, and action against illicit traffic in works of art, antiques and other cultural property.	12(2)(c)

2.1.3 International treaties to counter illicit trade related to the fisheries sector

The following subchapter details sector-specific treaties that have the potential to provide national authorities with alternative instruments to use when combating fisheries and related crimes. These are categorized as “sector-specific” due to their focus on specific categories of illicit trade which occur in the fisheries sector.

When applied in a complementary manner to fisheries treaties or treaties related to fisheries, they provide national authorities with a more integrated approach to combating crimes in the fisheries sector by offering the tools to address ancillary criminal conduct.

The following international treaties addressing fisheries-related crimes will be discussed in this subchapter:

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Drug Convention).

2.1.3.1 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Background on the Convention

The 1973 CITES is a multilateral environmental agreement between governments. It aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

It applies to the export, import and re-export of dead and living species, including marine species, listed in the appendices of the Convention itself.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Adopted: 3 March 1973
Entry into force: 1 July 1975
Status: 183 parties (See Appendix II)
Text of the Convention: https://cites.org/eng/disc/text.php
Status of ratifications: https://cites.org/eng/disc/parties/chronolo.php
(As of December 2017)

Link to fisheries

Because it provides a legal framework to regulate the international trade of species and promotes cooperation among its parties, CITES is another potentially useful instrument which could be used as a legal basis to arrest and charge relevant fishing vessels operators with a violation of the Convention.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Regulation of trade	The Convention creates a system of control and regulation of the international trade in certain specimens listed in the annex to ensure that their import, export, or re-export are only done through permits and certificates issued by a State authority.	III
Export permits	It sets out that management authorities are in charge of administrating the licensing system and scientific authorities provide advice for the granting of export permits.	IV; IX
Measures to be taken by the parties	It requires its State parties to: - Penalize trade in, or possession of, protected specimens; - Provide for the confiscation or return of those specimens to the State of origin; and - Provide for reimbursement of expenses incurred as a result of the confiscation.	VIII
Protected species	The Convention provides varying degrees of protection to some 35,000 protected species listed in its annex as shown in the table on the following page.	N/A

Species covered by CITES, listed according their conservation status

Protected species	
Appendix I	Includes species (animals and plants) threatened with extinction. Illegal trade in specimens of these species is prohibited except when the purpose of the import is not commercial (e.g. scientific research).
Appendix II	Includes species that are not necessarily threatened with extinction but that may become so unless trade is closely controlled.
Appendix III	Includes species at the request of a Party that already regulates trade in the species and that needs the cooperation of other countries to prevent unsustainable or illegal exploitation.
The checklist of CITES species recorded in the Convention is available online to facilitate governmental and law enforcement action: http://checklist.cites.org/#/en.	

Wildlife and Forest Crime Analytic Toolkit

The International Consortium on Combating Wildlife Crime (ICCWC) is composed of five international organizations: the WCO, the CITES Secretariat, INTERPOL, UNODC and the World Bank. The goal of the ICCWC is to coordinate international efforts against wildlife crime (see Chapter 1.2.3 of this guide).

In 2012, the ICCWC published a toolkit on Wildlife and Forest Crime. The toolkit refers to all wild fauna, including animals, birds, and fish, as well as timber and non-timber forest products.

The toolkit consists of five parts:

- Legislation (international, regional, domestic, wildlife, forest and related offences)
- Law enforcement measures
- Judiciary and prosecution
- Drivers and prevention
- Data and analysis.

The toolkit is designed to assist government officials and enforcement agencies to facilitate the detection, prevention and repression of wildlife and forest crimes.

Toolkit: https://www.unodc.org/documents/Wildlife/Toolkit_e.pdf.

Toolkit Fact Sheet: https://cites.org/sites/default/files/eng/prog/iccwc/Toolkit_Fact_Sheet_ENG.pdf.

Toolkit implementation step-by-step guide: https://cites.org/sites/default/files/eng/prog/iccwc/Toolkit%20implementation%20-%20step%20by%20step%20v3.pdf.

2.1.3.2 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Drug Convention)

Background on the Convention

One of the objectives of the 1988 Drug Convention is to enhance the channels for international judicial cooperation among the Parties so that they address more effectively the various aspects of the illicit traffic in drugs.

Most of the Convention's provisions deal with the laundering of proceeds of crime (freezing, seizure, and confiscation of property or proceeds of crime), extradition, or mutual legal assistance, and have been subsequently transposed to other instruments such as UNTOC and UNCAC.

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Drug Convention)

Adopted: 20 December 1988
Entry into force: 11 November 1990
Status: 189 parties (See Appendix II)
Text of the Convention:
https://www.unodc.org/unodc/en/treaties/illicit-trafficking.html
Status of ratifications:
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=_en
(As of December 2017)

Link to fisheries

Drug smuggling is a crime which can be connected to IUU fishing. Indeed, fishing vessels are sometimes used by criminals to traffic drugs. Fisheries expertise may help determine whether a fishing vessel exhibits risk factors of smuggling of drugs or other illicit commodities. The use of the Drug Convention could therefore be useful in disrupting criminal networks involved in this type of illegal activity.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Offences and sanctions	The Convention describes conduct related to drug trafficking which State parties are expected to criminalize.	3
Confiscation	The Convention outlines a legal framework for the freezing, seizure, and confiscation of proceeds from drug trafficking offences, including for State parties to be able to respond to a request for confiscation originating from another State party.	5
Criminal justice response to illicit trade	The Convention tasks States with enacting certain measures supporting the criminal justice response to illicit trade. These include: jurisdiction, extradition, mutual legal assistance (specifically, in urgent circumstances, where the Parties agree, **through INTERPOL channels**, if possible), transfer of criminal proceedings, training and technical cooperation and the use of controlled deliveries.	4-11
Exchange of information	The Convention recommends that the widest possible use should be made by police authorities of INTERPOL records and communications systems in achieving the Convention's goals.	Resolution 1

Report: The use of fishing vessels for drug trafficking

In 2008, a report from UNODC on "Drug Trafficking as a Security Threat in West Africa" noted that transshipments between fishing vessels are a common method used to traffic drugs from South America, to Western Africa, and from there to Spain and Portugal.

From UNODC, "Drug Trafficking as a Security Threat in West Africa," November 2008, report available at: http://www.unodc.org/documents/data-and-analysis/Studies/Drug-Trafficking-WestAfrica-English.pdf (pp. 10-11).

SUMMARY OF CRIME TYPES AND THEIR RELATED INSTRUMENTS*

Fisheries crimes and related instruments	
Crime Type	**Related instruments**
Illegal fishing or violation of flag State and/or coastal State fisheries laws and regulations	- United Nations Convention on the Law of the Sea (UNCLOS) - FAO Compliance Agreement - United Nations Fish Stocks Agreement (UNFSA) - Port State Measures Agreement (PSMA)
Bribery	- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions - United Nations Convention Against Corruption (UNCAC) - United Nations Convention on Transnational Organized Crime (UNTOC)
Blackmail	- UNTOC
Conspiracy	- UNTOC

Connected Crimes and Related Instruments	
Crime type	**Related instruments**
Arms trafficking	- Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UNTOC - Arms Trade Treaty
Corruption	- UNCAC
Customs offences	- International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences

Document fraud (including falsification of permits, licenses, catch document)	- UNTOC
Forced labour and human trafficking	- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UNTOC - Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UNTOC - ILO Work in Fishing Convention No. 188
Money laundering	- UNTOC
Obstruction of justice	- UNTOC
Offences under international marine/environment law	- International Convention for the Prevention of Pollution from Ships (1973) - Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Organised crime	- UNTOC
Tax violations	- Convention on Mutual Administrative Assistance in Tax Matters, *amended by the 2010 Protocol*
Violations of international labour law standards	- UNCLOS - ILO Work in Fishing Convention No. 188 - Other relevant ILO Conventions
Violation of maritime regulations	- International Convention on Arrest of Ships
Violation of navigation laws	- Relevant IMO Conventions
Violations of merchant shipping laws	- UNCLOS - Relevant IMO Conventions

*Note: Some crimes (such as certain types of fraud, blackmail, and conspiracy) are not covered by international treaties and therefore require the use of appropriate national legislation in order to facilitate enforcement.

2.2 Regional legal frameworks for combatting crimes in the fisheries sector

2.2.1 Regional conservation and management treaties

In addition to the universal level of governance established for fisheries resources (see chapters 2.1.1 and 2.1.2), several multilateral agreements have been adopted to manage fisheries resources and enforce fisheries legislation at the regional level.

There are two types of regional fisheries organizations: regional fisheries management organizations (RFMOs), which have State party-delegated authority to adopt binding conservation and management measures, and regional fisheries organizations (RFOs), which only provide non-binding advice.

Figure 2.1: Map of global RFMOs[62]

2.2.1.1 Regional Fisheries Organizations (RFOs)

Countries have come together to create regional fisheries organizations with advisory mandates. There are currently 40 of these RFOs in the world.[63] The purpose of these organizations is to promote the full and sustainable utilization of living marine resources by providing advice or coordinating mechanisms which are not binding for their parties, in contrast to RMFOs (see next section).

2.2.1.2 Regional Fisheries Management Organizations (RFMOs)

Over the past decades, RFMOs and other regional arrangements have gradually emerged as key mechanisms for the governance of high sea resources. This change is reflected in the number of references to these types of organizations and arrangements in international instruments related to fisheries (for example, UNCLOS, UNFSA, FAO Compliance Agreement, PSMA, FAO Code of Conduct for Responsible Fisheries, and IPOA-IUU).

The role of RFMOs and arrangements is twofold: to facilitate international cooperation in the management of fish stocks and to ensure their long term and sustainable exploitation. There

[62] Source: FAO, http://www.fao.org/fishery/rfb/en.
[63] More information is available at http://www.fao.org/fishery/rfb/search/en.

are currently 20 RFMOs and two regional arrangements covering most areas of the globe where commercial fishing takes place.[64]

To this end, RFMOs and arrangements adopt various types of conservation and management measures, such as the establishment of fishing quotas, gear regulations, fishing seasons, closed areas, by-catch limits or even complete prohibitions on fishing.

They also adopt monitoring, control and surveillance measures, such as the establishment of observer programmes, vessel tracking systems, authorized vessel lists, high seas boarding and inspections, lists of vessels presumed to have carried out IUU fishing ("IUU lists"), regulations on transshipments, port State measures, trade measures or catch documentation schemes for some of their regulated species.

These measures are very often binding for parties to the RFMO or participants to the Agreement.

Major RFMOs and common monitoring, control and surveillance measures

	CCAMLR	CCBSP	CCSBT	GFCM	ICCAT	IATTC	IOTC	NAFO	NEAFC	NPAFC	SEAFO	SPRFMO	WCPFC
IUU list	✓				✓	✓	✓	✓	✓		✓	✓	✓
High seas boarding and inspection scheme	✓	✓			✓			✓	✓	✓	✓	✓	✓
Catch documentation scheme	✓		✓		✓								✓
Port State measures	✓		✓	✓	✓	✓	✓	✓	✓		✓		✓
Trade restrictive measures	✓				✓	✓	✓	✓	✓				

[64] See Appendix II for list of ratifications of regional fisheries cooperation instruments.

2.2.2 Regional frameworks to combat IUU fishing

In some areas of the world, similar to non-binding international codes of conduct, regional codes of conduct have been adopted by countries to set general standards in a specific region. For example, in its capacity as a policy-making body for its member states, the EU enacts binding regulations governing the internal EU market. This has also been seen in Middle East and Africa with the Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden (Djibouti Code of Conduct) and the Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and Central Africa (Yaoundé Code of Conduct).

2.2.2.1 European legal framework to combat IUU fishing

The European Union plays a leading role in the fight against IUU fishing. In this context, it introduced an IUU regulation in 2010 establishing an EU-wide system to prevent, deter and eliminate the import of IUU fishery products into the EU market.

Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999

Adopted: 29 September 2008
Entry into force: 29 October 2008
Text of the Convention: http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008R1005
Status of ratifications: N/A

Background on the European Council (EC) Regulation

In 2010, the EU Regulation establishing a Community system to prevent, deter and eliminate IUU fishing entered into force. The EU IUU Regulation limits access to the EU market to fisheries products that carry a catch certificate which certifies compliance with fisheries laws and conservation measures and establishes rules for the control of EU nationals connected to IUU fishing and trade in the products derived from it.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Port State entry	Masters of third country fishing vessels must notify the competent authorities of an EU Member State whose (designated) port facilities they wish to use at least three working days prior to the estimated time of arrival or entry into that port.	6
Port State inspection	EU Member States are required to carry out inspections of at least 5 per cent of all landings and transshipments by third country fishing vessels each year. Vessels will systematically be inspected in case of suspicion of findings of noncompliance with conservation and management measures.	9-10
Catch certification scheme	The Regulation establishes a catch certification scheme whereby only marine fisheries products certified as caught in accordance with applicable legislation and regulations can be imported into the EU.	12-22
EU IUU vessel list	The European Commission established a Community IUU vessel list, which includes the fishing vessels of flag Member States which have been identified as conducting IUU fishing activities, as well as vessels included in the IUU vessel lists adopted by RFMOs.	27, 30
Non-cooperating third countries list	The Commission established a list of third countries which export fish to the EU or lend their flags to vessels that bring fish into the EU, that it considers as non-cooperating in fighting IUU fishing and do not meet EU standards for fisheries management. Prior to being added to the list, the Commission first notifies third countries of the possibility of being added to this list to give them a chance to refute their identification as non-cooperating, or to produce a plan of action to rectify the situation.	31, 32
Penalties for EU nationals	EU operators who fish illegally anywhere in the world, under any flag, face substantial penalties proportionate to the economic value of their catch.	39
Mutual assistance	The IUU Regulation provides for the setting up of systematic and automated administrative cooperation and exchange of information concerning potential and detected IUU fishing which covers the: exchange of information on request; exchange of information on spontaneous basis, without prior request; requests to take enforcement measures; and notification of instruments or decisions on request.	51

2.2.2.2 Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden ("Djibouti Code of Conduct")

Background on the Code

The Djibouti Code of Conduct is a voluntary agreement which calls for cooperation to the greatest possible extent between its signatories to repress piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden.

This Code of Conduct was revised in January 2017 (during the Jeddah meeting in Saudi Arabia) to include cooperation in the fight against maritime security issues, specifically calling on signatories to cooperate to repress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities seen in this region.

Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden (Djibouti Code of Conduct)

Adopted: 29 January 2009
Entry into force: 29 January 2009
Status: 20 States
Text of the Code: http://www.imo.org/en/OurWork/Security/PIU/Pages/DCoC.aspx
Link to the status of ratification: N/A

This revision also aimed to promote greater regional cooperation and enhance participants' effectiveness in the prevention, interdiction, prosecution and punishment of those persons engaging in piracy, armed robbery against ships and other illicit maritime activities.

Link with fisheries

The Djibouti Code of Conduct has recently been revised to include specific dispositions related to the fight against IUU fishing activities. It also reflects the intention of the participants to fully participate in INTERPOL Global Fisheries Enforcement (see Article 7 in the table on the next page: "Measures to repress IUU fishing").

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Purpose and scope	Participants to the agreement are encouraged to cooperate to the fullest possible extent in the repression of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea, by, *inter alia*: - Sharing and reporting relevant information in these domains; - Interdicting ships and/or aircraft suspected of engaging in such activities; - Ensuring that persons committing or attempting to commit transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea are apprehended and prosecuted.	2(1)(a) 2(1)(b) 2(1)(c)
Measures at the national level	Participants pledge to prosecute perpetrators of all forms of piracy and unlawful acts, including IUU fishing, against seafarers, ships, port facility personnel and port facilities, using their domestic courts and in accordance with relevant domestic laws.	3(5)
Measures to repress IUU fishing	Participants intend to develop and harmonize measures to repress IUU fishing and associated crimes, such as port state measures (including the ratification, approval and accession to the PSMA), vessel monitoring systems (VMS), mechanisms for sharing VMS information from these systems through secure channels with appropriate authorities, and the strict regulation of transshipment activities Participants pledge to cooperate and collaborate fully in relevant international projects and initiatives, such as **INTERPOL's Project Scale, an international initiative to detect, suppress and combat fisheries crimes.**	7(1) 7(2)

2.2.2.3 Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and Central Africa (Yaoundé Code of Conduct)

Background on the Code

The 2013 Yaoundé Code of Conduct was developed with assistance from the IMO. It incorporates many elements of the 2009 Djibouti Code of Conduct for the Western Indian Ocean and the Gulf of Aden (see Chapter 2.2.2.2).

The purpose of this Code of Conduct is to encourage its signatories to cooperate in the repression of transitional organized crime in the maritime domain, such as piracy, armed robbery against ships or other illicit maritime activity in West and Central Africa.

This Code of Conduct is non-binding for its signatories. However, one of its provisions calls for eventually transforming it into a legally binding agreement (Article 17).

Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and Central Africa (Yaoundé Code of Conduct)

Adopted: 25 June 2013
Entry into force: 25 June 2013
Status: 25 States
Text of the Code:
http://www.imo.org/en/OurWork/Security/WestAfrica/Documents/code_of_conduct%20signed%20from%20ECOWAS%20site.pdf
Link to the status of ratification: N/A

Link with fisheries

The Yaoundé Code of Conduct includes IUU fishing in its list of "transnational organized crime in the maritime domain" (Article 1(5)(1)).

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Definition	IUU fishing is included in the list of acts, which, when committed at sea, are considered to be "transnational organized crime in the maritime domain," along with money laundering, illegal arms and drug trafficking, piracy and armed robbery at sea, illegal oil bunkering, crude oil theft, human trafficking, human smuggling, maritime pollution, illegal dumping of toxic waste, maritime terrorism and hostage taking and vandalization of offshore oil infrastructure.	1(5)
Purpose and scope	The Code encourages its signatories to cooperate to the greatest possible extent in the repression of transnational organized crime in the maritime domain, including against IUU fishing, by: - Sharing and reporting relevant information; - Interdicting ships and/or aircraft suspected of engaging in these types of crimes in their maritime domains; - Ensuring that persons committing or attempting to commit these types of crimes are apprehended and prosecuted; - Facilitating proper care, treatment, and repatriation of seafarers, fishermen, other shipboard personnel and passengers subjected to these type of crimes, particularly those who have been subjected to violence.	2(1)
Measures to repress Illegal, Unregulated and Unreported fishing	The Code of Conduct encourages its signatories to consult at the bilateral and subregional levels in the formulation and harmonization of policies for the conservation, management, and sustainable use of marine living resources (especially straddling stocks and highly migratory species). It also encourages its signatories to cooperate and collaborate with subregional fisheries bodies and the FAO on preventing and combatting IUU fishing, as well as protecting fisheries resources for sustainable long term utilization.	8(1) 8(2)
Consultations	After a period of three years from the signing date, the Code of Conduct shall be evaluated in order to assess its implementation and with a view to eventually transform this Code into a binding multilateral agreement.*	17

*The last update on this evaluation took place in August 2017, with the IMO meeting with 26 African States to review the effectiveness of the Code of Conduct. *See* https://www.safety4sea.com/imo-reviews-maritime-security-code-of-conduct/.

2.2.2.4 Regional Plan of Action to Promote Responsible Fishing Practices Including Combating IUU fishing in the Region (RPOA-IUU)

As previously mentioned, drawing on the global IPOA-IUU adopted by the FAO (see Chapter 2.1.1.7), several countries have developed their own National or Regional Plans of Action to combat IUU fishing.

One example of this is the RPOA-IUU adopted in Southeast Asia.

Background on the Plan

The 2007 RPOA-IUU is a voluntary instrument which takes its core principles from the UNCLOS, the UNFSA, and the FAO Code of Conduct for Responsible Fisheries. It also draws upon the IPOAs adopted by the FAO, including the IPOA-IUU.

It was endorsed in May 2007 by 11 countries and four regional fisheries organizations and provides technical advice and assistance to its signatories.[65]

Regional Plan of Action to Promote Responsible Fishing Practices including Combating IUU fishing in the Region

Endorsed: 5 May 2007
Status: 11 Countries and 4 RFOs
Text of the Plan: http://www.rpoaiuu.org/

The objectives of the RPOA-IUU are to enhance and strengthen the overall level of fisheries management in the region in order to sustain fisheries resources and the marine environment, and to optimize the benefit of adopting responsible fishing practices.

Main provisions relevant to law enforcement cooperation in the fisheries sector

Category	Provision	Article number(s)
Port State measures	The agreement calls on Parties to develop measures to regulate fishing vessels accessing their ports for transshipping and/or landing catch and to collect and exchange relevant data.	8
Monitoring, control and surveillance (MCS) systems	The agreement encourages Parties to develop a strong enforcement network to share data and information on enforcement strategies and provide advice and capacity building.	11

[65] Republic of Indonesia, Australia, Brunei, Cambodia, Malaysia, Papua New Guinea, The Philippines, Singapore, Thailand, Timor-Leste and Vietnam; as well as the APFIC, SEAFDEC, WCPFC and IOTC.

2.2.3 Regional cooperative enforcement frameworks

Under international law, a coastal State is required to cooperate with other States either directly or through subregional or regional management organizations to ensure the conservation and development of straddling stocks, highly migratory species, anadromous stocks and catadromous species (Articles 63, 64, and 66 of UNCLOS).

Intercoastal State cooperation can take a variety of forms, including bilateral or regional agreements to combat IUU fishing. The box below presents some examples of these types of cooperative frameworks.

South Pacific

- The Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region (or the Niue Treaty) (1992): www.ffa.int/system/files/Niue Treaty_0.pdf.

- Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands (2007): http://www.austlii.edu.au/au/other/dfat/treaties/2005/6.html.

- Treaty between the Government of Australia and the Government of the French Republic on Cooperation in the Maritime Areas Adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands (2003): http://www3.austlii.edu.au/au/other/dfat/nia/2004/9.html.

North Pacific

- Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations (1988) (continued under the US-Russia Agreement): www.nmfs.noaa.gov/ia/slider_stories/2013/04/agreement.pdf.

These bilateral and multilateral regional agreements contain provisions on the exchange of information, cooperation in fisheries surveillance and law enforcement, as well as prosecutions and sanctions.

2.3 National legislation

At the national level, legislative frameworks are required for the effective prevention, investigation and prosecution of offenders in the fisheries sector. National laws may also contribute to effectively combat fisheries crimes of a transnational nature.

The Lacey Act of the United States is often cited as an exemplary enforcement mechanism applicable to the field of fisheries: the Act is a US statute aimed directly at targeting illicit trade in illegally caught fish and wildlife.[66] It makes it unlawful for any person subject to US jurisdiction to:

> import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law (§3372(a)(2)(A)).

Under this Act, the United States can impose monetary or criminal penalties against individuals and companies engaged in illegal trafficking in fish and wildlife.

For the Lacey Act to be applicable to international imports, it is necessary to be able to show an underlying violation of a foreign law or regulation.[67]

[66] The United States Lacey Act, The Lacey Act Amendments of 1981, 16 United States Code §3371 - §3378.
[67] US Department of Agriculture, Lacey Act: Frequently Asked Questions, updated November 23, 2016, https://www.aphis.usda.gov/plant_health/lacey_act/downloads/Lacey-Act-Program-faq-11-23-2016.pdf.

Case Study: Bengis Case

From 1987 to 2001, three US citizens (Arnold Bengis, David Bengis and Jeffrey Noll) engaged in an elaborate scheme to illegally harvest large quantities of South and West Coast rock lobster and Patagonian toothfish off the coast of South Africa and export it to the United States in violation of South African law and international convention, which allowed them to be prosecuted under the Lacey Act.

The defendants underreported the fish harvested to South African authorities and bribed South African fisheries inspectors to accept false export documentation. As part of the scheme, the defendants also arranged for South African citizens who did not have valid US working permits to work for low wages at their fish processing facility in Portland, Maine.

This case illustrates a specific *modus operandi*: the perpetrators in this case attempted but failed to exploit the gaps in cooperation between jurisdictions. The defendants assumed that the US and South Africa would not compare the import and export documentation for the rock lobster trade. As the perpetrators had truthfully declared the catch amounts to the US Customs authorities, US investigators needed the violation of South African law to begin their investigation under the Lacey Act. They then followed the trail of evidence left by the defendants in multiple jurisdictions, including records of money flows and bank records obtained by MLA requests, import and export documentation, fisheries quota management records, evidence of bribery and falsified business records.

In July 2004, the three defendants were sentenced to terms of imprisonment ranging from 12 to 46 months and ordered to pay USD 5.9 million in fines for violating the Lacey Act.

In 2013, the defendants were additionally ordered to pay restitution in the amount of USD 29 million to South Africa for illegally exporting rock lobster and Patagonian toothfish to the USA. This is the largest known restitution order in a Lacey Act case to date.

This case predated the existence of INTERPOL's Project Scale and was dependent on the application of US law. In similar cases, where equivalent domestic legislation does not exist, international cooperation via INTERPOL's channels can still be effective in tackling offences committed in multiple jurisdictions. For example, INTERPOL's Global Fisheries Enforcement continues to facilitate member country requests for transnational cooperation in combating the illegal fishing of Antarctic toothfish.

From: *United States of America v Bengis (2013), WL 2922292*; *Press release by the United States Attorney for the Southern District of New York, 14 June 2013*; Asner, Marcus A. (2017) "To Catch a Wildlife Thief: Strategies and Suggestions for the Fight Against Illegal Wildlife Trafficking," *University of Pennsylvania Asian Law Review*, Vol. 12: Iss. 1, Article 2. *Available at*: http://scholarship.law.upenn.edu/alr/vol12/iss1/2.

2.4 Mechanisms for international cooperation against crimes related to the fisheries sector

The transnational nature of fisheries crimes and related crimes means that cooperation among all involved countries is key to successful criminal investigations and subsequent prosecutions.

This subchapter discusses some of the main mechanisms for international cooperation.

2.4.1 Law enforcement cooperation

Cooperation between law enforcement agencies in different States can occur through the use of various channels, such as direct bilateral or multilateral contacts, posting of police liaison personnel in foreign States, cooperation on prevention, cooperation on information-sharing, cooperation during investigations or cooperation through international police organizations such as INTERPOL (see Chapter 3 of this Guide).

International law enforcement cooperation can take place prior to any judicial proceedings, during an official investigation, once judicial proceedings have commenced or even after their conclusion. This can occur informally, such as through arrangements made between the relevant police agencies as permissible under national laws, or formally, based upon a request for mutual legal assistance (see Chapter 2.4.2).

Informal cooperation may include unofficial exchanges between fisheries officers and other competent national authorities. This form of cooperation provides advantages in terms of timeliness, but information exchanged in this manner may not always be cleared for use in later judicial proceedings: this will depend, for example, on the type of information requested and how the information was gathered, as well as on the laws of both the sending and the recipient countries (typically referred to as the requesting and requested countries).

2.4.2 Mutual legal assistance (MLA)

Mutual legal assistance (MLA) is the use of formal cooperation through existing legal mechanisms to exchange information. It is an essential mechanism for international cooperation, especially when it comes to criminal proceedings relating to transnational crime, which often involve the enforcement of laws and the prosecution of relevant offences established under different domestic legislative regimes. The table on the following pages outlines some common practices States use for MLA procedures. For a real-life application of an MLA procedure used in fisheries enforcement, see case study 2 in Chapter 4.

Generally, MLA can be based on treaties between States at the bilateral, regional or international level. Outside of specialized bilateral or multilateral treaties, UNTOC, UNCAC, and the 1988 Drug Convention all contain specific provisions which aim to enable their State parties to provide each other the widest measure of assistance in investigations, prosecutions and judicial proceedings. These treaties contain detailed provisions that can serve as a legal basis for formal cooperation between State parties.[68] Additionally, these instruments provide for the possibility of transmitting MLA requests through INTERPOL in urgent circumstances where the State parties agree.[69]

[68] For example, Article 18 of UNTOC (for a full explanation, see the chart on following page).
[69] For example, see Article 18(13) of UNTOC.

Even if a treaty does not pertain specifically to fisheries, it can still be used as the basis for requests for mutual legal assistance in fisheries-related cases. For example, some examples of regional treaties that can be used to invoke MLA in fisheries-related cases include:

- European Convention on Mutual Assistance in Criminal Matters
- MERCOSUR Mutual Legal Assistance in Criminal Matters Treaty
- Southeast Asian Mutual Legal Assistance in Criminal Matters Treaty.

Although States typically prefer requests for MLA to be based on a treaty, a request may also be based on the principles of reciprocity and comity if allowed for by domestic legislation.

Mutual Legal Assistance and transnational cooperation

What is MLA?	MLA refers to the process by which a State provides assistance to another State in gathering evidence for use in criminal investigations and proceedings.[70] An MLA request can be based on a Mutual Legal Assistance Treaty (MLAT), though this is not the only basis (for example, MLA can occur based on reciprocity or national legislation). MLATs can be bilateral (country to country), multilateral (based on conventions such as UNTOC or UNCAC), or regional/country-regional (for example, between the United States with all the members of the European Union).
When to request MLA?	Generally, States are not obliged to wait for formal criminal proceedings to have commenced to trigger the MLA procedure and can invoke the procedure during the early stages of an investigation.
How to draft an MLA request?	The MLA request should be drafted based on the requirements of the applicable treaty and any specific requirements under the national laws of the requesting and requested countries. For example, UNTOC Article 18 is often referred to as a "mini-treaty" on MLA. It permits State parties to provide one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences under the Convention. Article 18 also establishes the procedure to follow when making a request for assistance, such as the content of the request, the circumstances when an MLA request may be refused, the conditions for transfer of a person, the giving of evidence by video conference, refusal of requests, execution of requests, postponements of assistance, safe conduct of witnesses, experts, and other persons giving evidence, costs associated with executing requests, and the obligations of the requested State to provide information to the requesting State (Paragraphs 9 to 29). Some tools to facilitate drafting of MLA requests are available to practitioners, such as the UNODC Mutual Legal Assistance Request Writer Tool.

[70] This definition of MLA comes from the UNODC *Manual on International Cooperation in Criminal Matters Related to Terrorism* (2009).

Types of legal assistance which can be requested	A broad range of cooperative measures that assist in the enforcement of laws and prosecution of relevant offences established under different domestic legal regimes can be requested, such as, *inter alia*: - Collecting evidence or statements from persons; - Executing searches, seizures and asset freezing; - Examining objects and sites; - Providing originals or certified copies of relevant documents and records; - Identifying or tracing proceeds of crime; - Identifying and locating persons.
How to receive assistance	If available and permissible under the laws of the participating jurisdictions, police-to-police cooperation is preferable. Central authorities can also be used as means for communication. If neither of these options are available, diplomatic channels can be used. **In addition to various bilateral treaties, UNTOC, UNCAC and the 1988 Drug Convention provide for the possibility of transmitting MLA requests through INTERPOL in urgent circumstances.**

2.4.3 Joint investigative teams

A joint investigative team (JIT) refers to a team composed of law enforcement officers from different countries which is set up for a fixed period of time to investigate a specific transnational case together.

The concept of joint investigation was first established in the 1988 Drug Convention. Article 9(1)(c) encourages State parties "in appropriate cases and if not contrary to domestic law, [to] establish joint teams, taking into account the need to protect the security of persons and of operations, to conduct enquiries having an international character."

A number of subsequent international instruments have reiterated the call for competent countries' authorities to establish "joint investigative bodies" through bilateral or multilateral agreements or arrangements in relation to matters that are the subject of investigations, prosecutions, or judicial proceedings in one or more States.[71]

The legal basis for establishing such a team and enabling foreign law enforcement officers to conduct investigations in a different country is a bilateral or multilateral agreement or arrangement setting out the terms and conditions of joint investigations. The ability of a country to participate in a JIT depends on their domestic legislation and procedure.

One model for the structure of setting up JITs comes from the Act on Mutual Assistance in Criminal Matters between the Member States of the European Union.[72] This Act requires that JITs be set up for a specific purpose, with an agreed composition, for a limited period, which may be extended by mutual consent.

2.4.4 Mutual administrative assistance (MA) among customs authorities

Mutual administrative assistance (MA) most often refers to the type of assistance provided by one country's customs authorities to another's, and includes assistance in the prevention, investigation, and combating of customs offences. This type of assistance is particularly relevant to fisheries crimes, because it can include illicit trafficking and trading of fisheries products.

The aim of this type of international cooperation between customs administrations and other law enforcement authorities is to foster the sharing of information. However, contrary to MLAs, MAs do not fall within the scope of criminal or court procedures.

[71] From Article 19 of UNTOC; Article 49 of UNCAC.
[72] European Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.

Various international organizations have adopted instruments establishing frameworks for MA. Some examples include:

- **World Customs Organization (WCO)**
  - International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (1977)[73]
  - Model Bilateral Agreement on Mutual Administrative Assistance in Customs Matters (2004)[74]

- **Organisation for Economic Co-operation and Development (OECD)**
  - The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, amended by the 2010 Protocol.[75]

2.4.5 Extradition

Extradition is the formal process whereby a State requests another State to return a person accused or convicted of a crime to stand trial or serve his sentence in the requesting State.[76] This can occur (a) in order to prosecute him or her; or (b) for the purpose of executing a criminal judgment that has already been pronounced.

Extradition relies on formal international cooperation between States to effect the request, and is generally (though not exclusively) regulated by treaty. The legal basis for extradition proceedings is often defined in great detail in domestic legislation.

Other options to consider, if available, are deportations or lawful expulsions under national law. Generally, these measures can be more expeditious than extraditions.

INTERPOL's system of Red Notices plays a central role in police cooperation for extradition purposes and will be examined in Chapter 3 of this Guide.

A practical step-by-step *Manual on Mutual Legal Assistance and Extradition* has also been published by UNODC with recommendations on how to initiate and follow through on the process of extradition.[77]

[73] *Available at* http://www.wcoomd.org/en/about-us/legal-instruments/~/media/ 574B25F13D9C4D4BA44AB4CD50A967C5.ashx.
[74] *Available at* http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/~/media/DFAAF3B7943E4A53B12475C7CE54D8BD.ashx
[75] *Available at* http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters_9789264115606-en#.WQmbWmclEwk
[76] *Manual on Mutual Legal Assistance and Extradition*, UNODC, New York, 2012, see: https://www.unodc.org/documents/organized-crime/Publications/Mutual_Legal_Assistance_Ebook_E.pdf.
[77] *Id.*

CHAPTER 3: INTERPOL'S CAPABILITIES IN FACILITATING INTERNATIONAL COOPERATION IN THE FISHERIES SECTOR

3.1 Introduction: cooperation through INTERPOL

As discussed in Chapter 2.4, law enforcement cooperation occurs through various channels, one of them being through regional and international police organizations, including INTERPOL. INTERPOL's mandate is to ensure the widest possible cooperation between all criminal police authorities and to suppress ordinary law crimes. It acts as a neutral platform for the global exchange of law enforcement information and provides guidance, coordination and assistance to all of its member countries.

Article 2 of INTERPOL's Constitution grants INTERPOL the mandate to achieve these goals by laying out the aims of INTERPOL:

> (1) To ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the "Universal Declaration of Human Rights";
>
> (2) To establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes.

More specifically, Article 31 of INTERPOL's Constitution states that:

> In order to further its aims, the Organization needs the constant and active co-operation of its Members, who should do all within their power which is compatible with the legislations of their countries to participate diligently in its activities.

These aims are achieved through cooperation with National Central Bureaus (NCBs) of each member country, which, according to Article 32 of INTERPOL's Constitution, serve as liaisons with:

> (a) The various departments in the country;
>
> (b) Those bodies in other countries serving as National Central Bureaus;
>
> (c) The Organization's General Secretariat.

To achieve these goals, INTERPOL provides a wide range of tools and services to assist its member countries in facilitating law enforcement cooperation against crimes, such as crimes in the fisheries sector. The following subchapter introduces some of these tools and services which might be relevant to practitioners in this field.[78]

[78] More information is available at INTERPOL's website at: www.interpol.int.

3.2 Specific tools available for cooperation in the fisheries sector

3.2.1 I-24/7 INTERPOL secure global police communication system

I-24/7 is a secure global police network operating 24 hours a day, 7 days a week connecting law enforcement officers in all of INTERPOL's member countries. It enables authorized users to continuously exchange crucial information with one another and to access INTERPOL databases and services 24 hours a day.

Authorized users can search and cross-check data in a matter of seconds, with direct access to databases containing millions of records on suspected criminals or wanted persons, stolen and lost travel documents, stolen motor vehicles, stolen vessels, fingerprints, DNA profiles, stolen administrative documents and stolen works of art.

I-24/7 is installed at all National Central Bureaus (NCBs), but many countries have chosen to extend access to other national law enforcement entities at strategic locations, such as border crossings, airports and customs and immigration posts.

Given the transnational nature of crimes in the fisheries sector, this tool is essential to enable a fast, secure and reliable communication system for the exchange of police data across borders.

3.2.2 INTERPOL notices and diffusions

3.2.2.1 Notices

INTERPOL notices are international requests for cooperation or alerts sharing critical crime-related information from police in member countries. This unique system is used to alert member countries to fugitives, dangerous criminals, missing persons and weapons threats, and also to collect additional information, provide warnings and intelligence about persons, and to seek or provide information on modi operandi.

Notices are published by the INTERPOL General Secretariat at the request of National Central Bureaus (NCBs) and authorized entities.

Only those notices approved for public dissemination appear on INTERPOL's website (the full list of notices is available to authorized users via INTERPOL's Information System).

One aspect of the Global Fisheries Enforcement team's activities is to assist member countries in issuing international notices and alerts that distribute information on, and warn of, the movements and activities of people and vessels. The INTERPOL Environmental Security Programme can assist in the drafting and development of such notices and alerts.

As part of the Global Fisheries Enforcement team's work, several Purple and Blue Notices have been requested by member countries and issued by INTERPOL for fishing vessels or in relation to fisheries crimes.

There are eight different types of notices:

Red Notice
To seek the location and arrest of wanted persons with a view to extradition or similar lawful action.

Blue Notice
To collect additional information about a person's identity, location or activities in relation to a crime.

Green Notice
To provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.

Yellow Notice
To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.

Black Notice
To seek information on unidentified bodies.

Orange Notice
To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.

INTERPOL – United Nations Security Council Special Notice
Issued for groups and individuals who are the targets of UN Security Council Sanctions Committees.

Purple Notice
To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals.

3.2.2.2 Diffusions

The other main category of requests for cooperation or alert mechanisms, similar to notices, is known as diffusions.

A diffusion is circulated directly by an NCB to the member countries of its choice, or to the entire INTERPOL membership, and is simultaneously recorded in INTERPOL's Information System.

As part of the Global Fisheries Enforcement Team's work, member countries often use the "vessel alert," a particular type of diffusion relating to wanted vessels. Coastal, port, flag, and other cooperating States are encouraged to circulate such messages at their own initiative, as they may be used to share information even before a Purple Notice is requested and published. Vessel alert messages may be circulated to chosen recipients for all fisheries-related crimes, regardless of the nature of the offence. The alerts are circulated via the I-24/7 system.

3.2.2.3 Key differences between notices, diffusions, and I-24/7 messages

I-24/7 messages are the most flexible means for NCBs and authorized international entities to communicate directly with each other via INTERPOL channels. However, unless otherwise indicated, the messages are not simultaneously recorded in INTERPOL databases. Unlike for notices and diffusions, I-24/7 messages are not subject to a systematic review for compliance by the General Secretariat.

Notices and diffusions share common features and purposes:

- They are requests for cooperation or alerts;
- They are available to NCBs and international entities;
- The data they contain is recorded in INTERPOL's databases for consultation.

Notices are broader in scope than diffusions. Requesting a notice implies the NCB has agreed to share its data with all member countries. Notices are subject to more stringent conditions for publication. In contrast, diffusions are more flexible and well suited to countries intending to place limitations on the data access because diffusions are circulated directly by an NCB to the member countries of their choice, or to the entire INTERPOL membership.

3.2.3 INTERPOL's databases

INTERPOL provides its member countries with instant, direct access to a wide range of criminal databases. All databases, except ICIS, maritime piracy and the International Child Sexual Exploitation (ICSE) image database, are accessible through the I-24/7 system.

The main databases are:

- **INTERPOL Criminal Information System (ICIS)**

ICIS was created in 1998 and is INTERPOL's general database used to store data on notices and known criminals, including the criminal history of people subject to a request for international police cooperation, details of offences and all known information linked to relevant persons and events. It also contains records of missing persons and dead bodies.

ICIS is accessed only from the General Secretariat and not by the NCBs.

- **DNA Profiles Database**

As of November 2017, INTERPOL's DNA database contained over 167,000 DNA profiles from 83 countries. Police in member countries can submit DNA profiles from offenders, crime scenes, missing persons, and unidentified bodies to INTERPOL's automated DNA database. The database search results are provided within 15 minutes.

Strict data protection rules are fully maintained when DNA profiles are shared: NCBs retain full ownership of their data and control destruction, and can restrict access of any data they submit. INTERPOL does not store any nominal data linking a DNA profile to any individual.

- **Fingerprints**

INTERPOL's fingerprints database contains more than 180,000 fingerprint records as of November 2017. Authorized users in member countries can view, submit and cross-check fingerprint records using I-24/7 via a user-friendly Automated Fingerprint Identification System (AFIS).

- **Stolen Vessel Database**

Among the most recent databases created by INTERPOL, this database serves as a centralized tool for tracing and tracking stolen vessels and engines. As of November 2017, the database contained 443 records from 14 participating countries. Police and other law enforcement officers in all member countries can access the database to make queries or add new entries from any location connected to I-24/7. By using a dedicated graphical user interface, officers in the field can access the database from remote locations, allowing them to conduct checks of vessels at land and sea border points.

- **Maritime Piracy**

The maritime piracy database stores information related to cases of piracy and armed robbery at sea, including data on individuals, telephone numbers, e-mail addresses, piracy incidents, locations, businesses and financial information. While not directly searchable by member

countries, they can request INTERPOL assistance in consulting the database for assistance in investigation and prosecution.

- **Stolen and Lost Travel Documents (SLTD) Database**

The SLTD database enables INTERPOL NCBs and other authorized law enforcement entities, such as immigration and border control officers, to ascertain the validity of travel documents (for example, passports, identity documents, or visas) in seconds. Details of stolen and lost passports are submitted directly to the SLTD database by INTERPOL NCBs and law enforcement agencies via I-24/7. As of November 2017, 174 countries contribute to the database which contains more than 78 million records.

- **Stolen Administrative Documents (SAD) Database**

As of November 2017, this database contained information on more than 765,000 official documents which serve to identify objects; for example, vehicle registration documents and clearance certificates for import/export.

- **Stolen Motor Vehicles (SMV) Database**

The SMV database provides extensive identification details on approximately 7.2 million vehicles reported stolen around the world. Between January and November 2017, more than 102,000 motor vehicles worldwide were identified using the database.

- **Firearms**

The INTERPOL Firearms Reference Table (IFRT) is an interactive online tool which enables investigators to obtain or verify the details of a firearm (including the make, model, calibre and serial number). As of November 2017, it contained more than 800,000 firearm references and 57,000 firearm images. Because it is a reference tool, no data is shared through the IFRT.

- **Other Databases**

INTERPOL maintains a number of other subject-specific databases, including the ICSE image database, the Stolen Works of Art Database, and a foreign terrorist fighter database.

3.2.4 INTERPOL's Criminal Analysis Files

INTERPOL also maintains a number of Criminal Analysis Files, with the purpose of enabling internal analytical work with more possibilities than permanent databases such as ICIS or SLTD. These temporary databases facilitate analysis of information on specific categories of crime, such as foreign terrorist fighters.

The idea for analysis files was developed in part because other INTERPOL databases only store police data with strict entry criteria. Analysis files, however, are able to store information that is in INTERPOL's nominal database and also information from open sources, international organizations and civil society. This wider range of sources of information is intended to allow analysts to identify more links among entities and cases.

Analysis files are set up within their own stand-alone databases separate from and not connected to the Organization's police databases.

Global Fisheries Enforcement participates in the Illicit Markets (ILM) Analysis File, which facilitates analysis of information on the illicit manufacturing, acquiring and distribution of illicit medical products, counterfeit goods and endangered wildlife and natural resource products.

3.3 Specialized teams

3.3.1 Investigative Support Teams (ISTs)

At the request of a member country, an Investigative Support Team (IST) can be deployed to support local law enforcement officers conducting a transnational investigation.

An INTERPOL IST is composed of experts from the INTERPOL General Secretariat. For example, this can include individuals from the Environmental Security Programme, the Command and Coordination Centre or the DNA Unit.

In the context of Global Fisheries Enforcement, a wide range of skills are offered to member countries through ISTs such as inspection procedures for high-risk vessels, digital forensics, language and technical support in interviewing suspects, database queries, follow-up criminal intelligence analysis, identification of transnational crime components and advice on how to issue an INTERPOL notice.

For environmental crimes, such as fisheries crime, an IST can provide national authorities with technical assistance and the required equipment to determine the origins of illegally trafficked wildlife or endangered species in order to potentially identify the criminal networks behind large-scale environmental criminal activities.

For instance, hotspots can be identified through the use of DNA and isotope analysis which help police better target criminal networks involved in transnational organized trafficking in wildlife, waste and natural resource products.

3.3.2 Incident Response Teams (IRTs)

An INTERPOL Incident Response Team (IRT) is deployed at the request of a member country in response to an incident or crisis. Similarly to ISTs, an IRT is typically composed of experts tailored to the specific nature of the disaster or crime and the requirements of the requesting country.

An IRT can be briefed, equipped and deployed anywhere in the world within a short time following an incident.

IRTs can provide a range of investigative and analytical support services at the site of an incident in coordination with the INTERPOL General Secretariat, such as:

- Issuing international notices for fugitives or terrorists whose arrests are sought by member countries;
- Database queries of fingerprints to quickly identify suspects;
- Access to the Stolen and Lost Travel Documents database;
- Money laundering expertise;
- Coordination of responses for disaster victim identification through a wide network of international experts and laboratories.

Particular types of IRTs can be deployed in response to particular needs. For example, Disaster Response Teams are deployed as part of an emergency response to unforeseen catastrophic events, such as large-scale accidents or natural disasters, usually to assist in identification of victims. Crime Response Teams are made up of specialized personnel who are deployed to

assist and support a member country faced with a major or serious issue which requires engagement by law enforcement authorities, for example, following a terrorist attack. Crime IRTs provide specific expertise and investigative support to local police.

The first IRT was deployed in October 2002 to Indonesia following the terrorist bombings in Bali. As of November 2017, a total of 114 teams have been deployed to countries across the world.

3.3.3 INTERPOL Fisheries Crime Working Group (FCWG)

INTERPOL's Fisheries Crime Working Group (FCWG) was established in February 2013 and provides an international platform for cooperation between member countries. Membership is open to all INTERPOL member States; the 2017 FCWG included 49 INTERPOL member States representing every continent and ocean regions.

The FCWG is guided by a board and organizes annual meetings for operational-level representatives from fisheries and tax authorities, customs, national police, navies and coastguards to work on agreed programmes of activities throughout the year. INTERPOL's FCWG also initiates and leads a number of projects to detect and combat fisheries crime.

The Working Group has four strategic goals:

- Enhance and develop the capacity, capability and cooperation of member countries to effectively enforce fisheries and crossover crimes;
- Encourage and assist the exchange of information and intelligence related to fisheries crime among member countries;
- Provide analytical and operational support to member countries in the enforcement of fisheries laws and regulations;
- Encourage and facilitate networking channels of communication and exchange of technical expertise between member countries for the purpose of fisheries law enforcement.

3.4 National Environmental Security Task Force (NEST)

A NEST is a national multi-disciplinary team of experts from various national agencies including police, customs, environmental, prosecutorial and other specialized agencies who work together to maintain national environmental security and fight environmental crime.

The purpose of a NEST is to bring together law enforcement agencies and their respective areas of expertise around a common mission or goal, such as reduction of pollution, conservation of a species or protection of other natural resources including fish stocks.

NESTs can be derived from or supported by other task forces which already exist in the country. A NEST can also be located within a Member State's INTERPOL NCB. In this case, it will benefit from direct access to the Organization's criminal databases and secure communication system which connects its member countries.

INTERPOL has developed a *National Environmental Security Task Force Manual* which explains how to establish and structure a NEST.[79] In order to set up a NEST, INTERPOL first recommends the holding of a National Environmental Security Seminar (NESS), designed to lead to the creation of a National Environmental Security Steering Committee (NESSC). The NESSC then provides direction and guidance in order to establish the NEST.

[79] "National Environmental Security Task Force: Bringing Compliance and Enforcement Agencies Together to Maintain Environmental Security," INTERPOL, Environmental Security Sub-Directorate, February 2014. *Available at*: https://www.interpol.int/Crime-areas/Environmental-crime/Task-forces.

3.5 Regional Investigative and Analytical Case Meetings

Regional Investigative and Analytical Case Meetings (RIACMs) can be arranged at the request of Member States and are facilitated by Global Fisheries Enforcement once information is collected and its analysis has led to the establishment of investigative teams and case files.

RIACMs bring together national law enforcement officers to analyse information and intelligence regarding significant cases, and to collaboratively pursue investigative outcomes and joint enforcement actions. RIACMs may involve participation by any country whose jurisdiction is impacted by a case, or who has voluntarily provided technical assistance or resources to the countries with case files or operational needs.

These meetings help to identify criminal networks and lead to opportunities for further exchange of police information and evidence under international crime cooperation procedures.

INTERPOL has previously facilitated transnational RIACMs which have included:

- Threat assessment meetings, prioritization of resources, operational scoping, networking and needs assessments.
- Operations leading to investigations.
- Mutual assistance in putting together information gathered in operations, identification of transnational criminal networks and their business models based on shared information, identifying evidence, and planning of further investigative operations or mutual legal assistance in order to transfer information as judicially admissible evidence.

3.6 Capacity building and training for law enforcement

Capacity building and training play a key role in INTERPOL's overall mission to enhance police cooperation.

INTERPOL hosts a wide variety of training sessions, workshops, seminars, working groups, meetings, conferences and other events in all regions of the world. Training is provided to strengthen the skills of NCB staff and other national law enforcement officers in the use of INTERPOL's policing capabilities and compliance with INTERPOL's regulations and to address national or regional needs or specific crime areas.

In order to assist member countries in enhancing their response to the transnational aspect of fisheries crime, the Global Fisheries Enforcement team organizes national and regional training on the identification and inspection of the highest-risk vessels, and on proper vessel documentation, evidence collection, chains-of-custody and operational planning.

CHAPTER 4: PRACTICAL GUIDE FOR LAW ENFORCEMENT PRACTITIONERS ENFORCING FISHERIES-RELATED CRIMES

The goal of this chapter is to give national and regional authorities working on matters related to illegal fishing a guide to some of the tools and processes available to them for obtaining information and/or mutual legal assistance from other states, regional organizations and INTERPOL. The first part of the chapter presents a framework to national authorities on available processes for requesting international cooperation in IUU fishing and fisheries crimes. The goal of this first part is to give national and regional authorities working on matters related to illegal fishing a step-by-step overview of how a case requiring international cooperation can proceed.

The second part of the chapter examines two real-life examples of international cooperation in the context of IUU fishing, fisheries crimes and other crimes committed in the fisheries sector. The case studies aim to illustrate the benefits of international cooperation and, specifically, the use of INTERPOL's policing capabilities in the framework of the activities of the Global Fisheries Enforcement team, including operational, tactical, and analytical support across the fisheries sector. Following each case study, the major issues raised by the cooperation between INTERPOL's member countries and international/regional stakeholders are examined. This includes the use of INTERPOL's notices, I-24/7 messages and the deployment of Investigative Support Teams, as well as requests for mutual assistance. A set of recommendations is included after the analysis in each section.

4.1 Processes for requesting international cooperation in IUU fishing and fisheries crimes

Pre-existing treaties, regional agreements and the domestic legislation of each state participant can dictate the terms under which transnational cooperation occurs in the enforcement of IUU fishing and fisheries crimes, but multiple forms of formal and informal communications are also possible. INTERPOL can also facilitate communication in transnational cases.

This process is illustrated by Figure 4.1 and is explained on the following pages. While the sequence of events may be linear, more likely than not, it will be iterative. However, international cooperation will generally occur in one of three phases:

In Phase 1, a national enforcement authority (for example, local, state or national police, fisheries or customs enforcement, and so forth), develops its investigation or opens a case file that requires some form of transnational cooperation due to the international status of the perpetrators involved (whether individuals or entities).

In Phase 2, the national authority will contact other states, regional and international organizations (such as INTERPOL) to request assistance and exchange information. This may occur at the beginning of the case or at any point in an investigation when investigators encounter an information gap. This phase may include the passing of information back and forth multiple times; the transmission mechanisms may change as the case evolves or as different countries and agencies connect relevant stakeholders. This phase highlights the importance of all evidence and information being collected from the inception of the case file within a clear legal framework, through a proper mandate, and maintained at all times in a legal chain of custody (CoC) to enable utilization by other jurisdictions. As the iterative process unfolds, there may come a point where INTERPOL brings together investigators, analysts and

operational personnel in a case conference to help build mutual support and establish evidential or investigative connections.

In Phase 3, the national authority uses the information collected in Phase 2 to bring the case to a conclusion, such as by levying a fine for administrative offences or prosecuting a criminal offender. The same sorts of mechanisms employed in Phase 2 can be employed by national authorities in Phase 3, for example, requests for information during ongoing trial proceedings or for the implementation of court decisions, such as requests for assistance in the seizure of assets, or requests to locate fugitives sentenced *in absentia*.

Phase 1: Initiation of a case

A case may immediately require transnational cooperation, or it may be necessary only later on, as a case progresses.

The national authority may begin investigation of a case inside its own borders, for example, in the event that a vessel is detained while illegally fishing in their EEZ. Once the case is initiated and the authority begins to collect information about the vessel, the authority may realize that it needs to contact authorities in a second country to obtain further information about the vessel. This might occur, for example, if the vessel's flag State is a second State.

Alternatively, the case might from the start involve two or more States. This can occur, for example, if a vessel is caught illegally fishing in a State's EEZ, but flees to the territorial waters of a second State before it can be detained (see Case Study 1). In this case, a State may need to engage one or more other States or organizations in real time while pursuing the perpetrators.

A third possibility occurs where a State opens a case and conducts an investigation domestically but, after the case is adjudicated, it lacks jurisdiction to execute the judgment. For example, if a vessel is detained and a fine is levied for illegal fishing, but the beneficial owner of the vessel is located in a second State, a State may require assistance in order to collect the fine, or to seize assets for payment.

Phase 2: Investigation, analysis and exchange of information

After a case has been initiated by a national authority, that authority might require information or assistance from a second State in order to advance the investigation, such as when authorities encounter an information gap. This phase may include the passing of information back and forth multiple times, and the partners involved may change as the case evolves or as different countries and agencies connect relevant stakeholders.

In some cases, this national authority will have a pre-existing relationship with a second State, and might contact them directly in order to request information or request to circulate information. For example, a State might request information regarding a fugitive vessel or individual. This can occur directly by a phone call or through email without any specific procedural requirements.

In other cases, the initiating State may want to ensure that any information or evidence passed is valid evidence that will be admissible in future judicial proceedings. In these instances, the State-to-State communication should occur through the procedures outlined in existing mutual legal assistance (MLA) or mutual administrative assistance (MA) agreements (see Chapter 2.4 for more information on mutual legal assistance) or other valid processes under the domestic legislation of the requesting and requested States.

Alternatively, the originating State might lack relevant national legislation or jurisdiction in order to advance an investigation, in which event, the relevant information from the case file can be passed at this stage to a second State (for example, a flag State or a vessel's current port State) to start their own national process for investigation.

In other cases, the national authority may not know which state to contact to progress the investigation, for example, when a vessel has absconded and its current location is unknown. Alternatively, the state may have some idea of where a vessel has gone, but maybe does not have a preexisting relationship with the relevant authorities in that state in order to request information about the vessel. In these cases, States are able, through their National Central Bureaus (NCBs), to contact INTERPOL and its Global Fisheries Enforcement team for assistance.

The Global Fisheries Enforcement team is composed of subject matter experts in fisheries crimes who can provide logistical advice in advancing the investigation. The team has experience in requesting or coordinating operational assistance among multiple countries, for example, to locate a vessel. INTERPOL can also circulate notices, vessel alerts or diffusions to all or selected member States in order to survey them for information (see Chapter 3 for more information on these capabilities). Additionally, INTERPOL can liaise with other regional police organizations, such as EUROPOL, to get the relevant information to the right stakeholders. If a State requires a line of communication with a second State, INTERPOL will contact the NCB of the relevant State in order to open this line of communication; INTERPOL can then continue to participate in the investigation as requested, or allow the two States to liaise directly after this step.

Additionally, INTERPOL's Global Fisheries Enforcement team is available to member States at any point in an investigation to offer assistance in analysing information, sharing reports, checking databases (see Chapter 3.2.3), convening case conferences (see Chapters 3.3-3.5), and/or to deploy an investigative support team (Chapter 3.3) to assist in the collection of evidence.

Phase 3: Case adjudication and enforcement

In this phase, the national authority uses the information collected in Phase 2 to bring the case to a conclusion, such as by levying a fine for administrative offences, or prosecuting a criminal offender.

A national authority may already have pre-established communication channels with INTERPOL or a second State from Phase 2 and will continue to use these channels throughout Phase 3 to locate a witness for trial, exercise jurisdiction over a perpetrator, seize assets, or enforce a judgement. Alternatively, a State may not require transnational cooperation until this stage, and only at this point will it need to liaise with other stakeholders to bring the case to a conclusion. Even though the investigative steps may be completed, the same channels as in Phase 2 remain available to State: namely, it can contact INTERPOL's Global Fisheries Enforcement through its NCB for assistance, or reach out to a second State directly or through an MLA or MA agreement. This back-and-forth exchange of information may continue for as many rounds as necessary to bring a case to a conclusion, and may even continue past the conclusion of a case as new investigative leads arise from the case investigation.

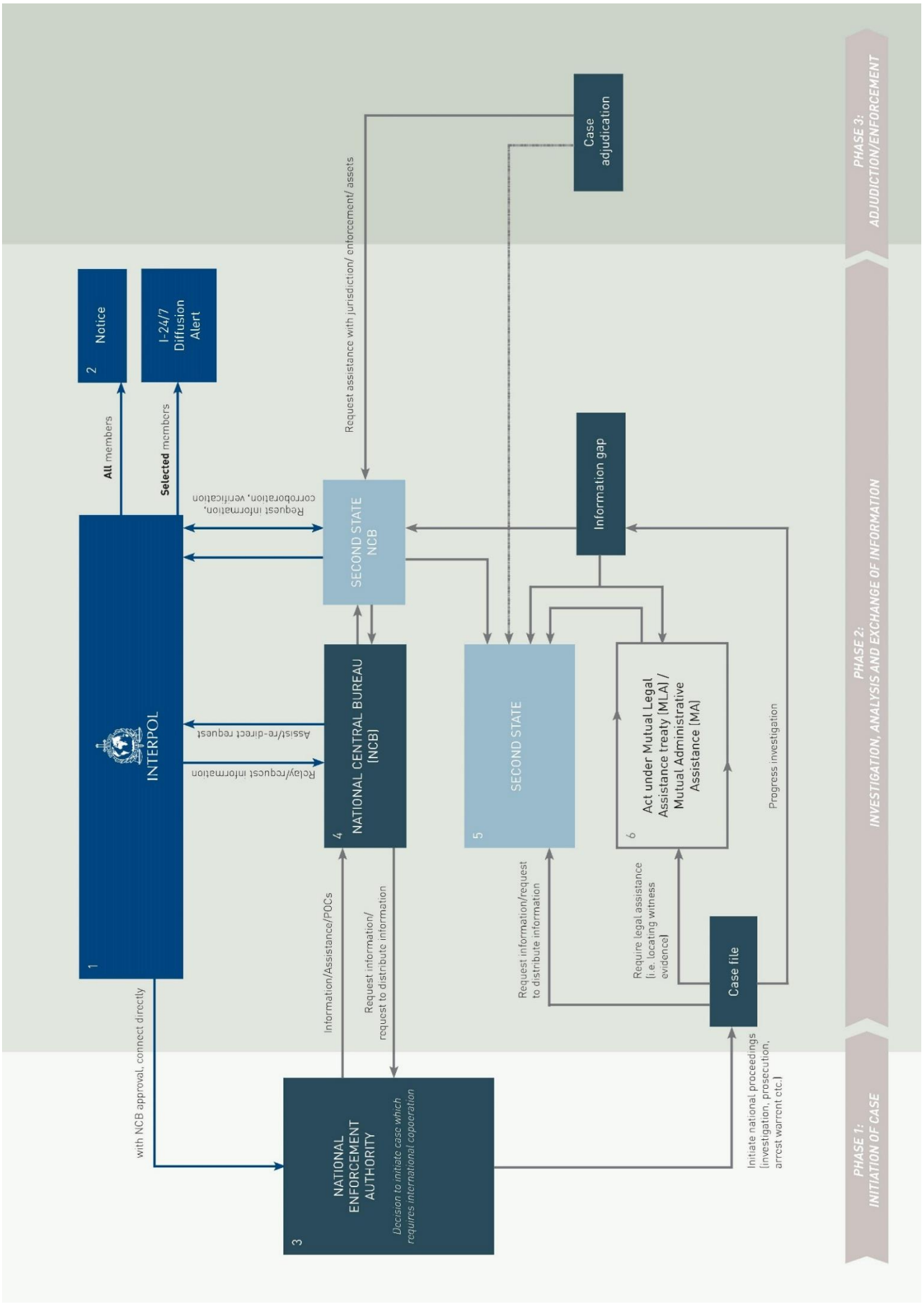

Figure 4.1: Processes for Requesting Law Enforcement Cooperation in Fisheries-Crime Related Cases

Legend

1	INTERPOL	INTERPOL's capabilities for assistances in fisheries matter include: • Providing logistical advice • Liaising with other police organizations (for example, EUROPOL) • Collecting documents from member NCBs • Opening communications lines between states or organizations • Analyzing information • Sharing reports • Checking databases • Convening case conferences • Contacting the NCBs of other Member States to request information • Requesting or coordinating operational assistance (for example, to locate a vessel) • Deploying INTERPOL investigative or support teams (IST/IRT) • See Chapter 3 for more details on these capabilities
2	Notice, I-24/7, Diffusion, Alert:	See Chapter 3 for more information on these tools.
3	National Enforcement Authority	Refer to Whole-of-Government Chart on the following page for more information on relevant national agencies which may be involved in case investigation.
4	National Central Bureau (NCB)	NCB: refer to Chapter 3.1 on Cooperation Through INTERPOL for more information on the role of NCBs
5	Second State	This second state may have information, evidence, or witnesses relevant to the investigation, or a perpetrator might be located within the state.
6	Mutual Legal Assistance treaty (MLA) / Mutual Administrative Assistance (MA)	See Section 2.4 for more information on MLA and MA

The figure below highlights examples of different national enforcement authorities that may be involved in enforcing IUU fishing or fisheries-related crimes. It is important to note that all communication between national enforcement authorities of all types (military, customs, fisheries, and so forth) and INTERPOL are routed through that country's NCB. The arrows indicate potential lines of communication between agencies in a national government, their NCBs and subject matter experts in specialized national agencies, which then connect to other international institutional structures.

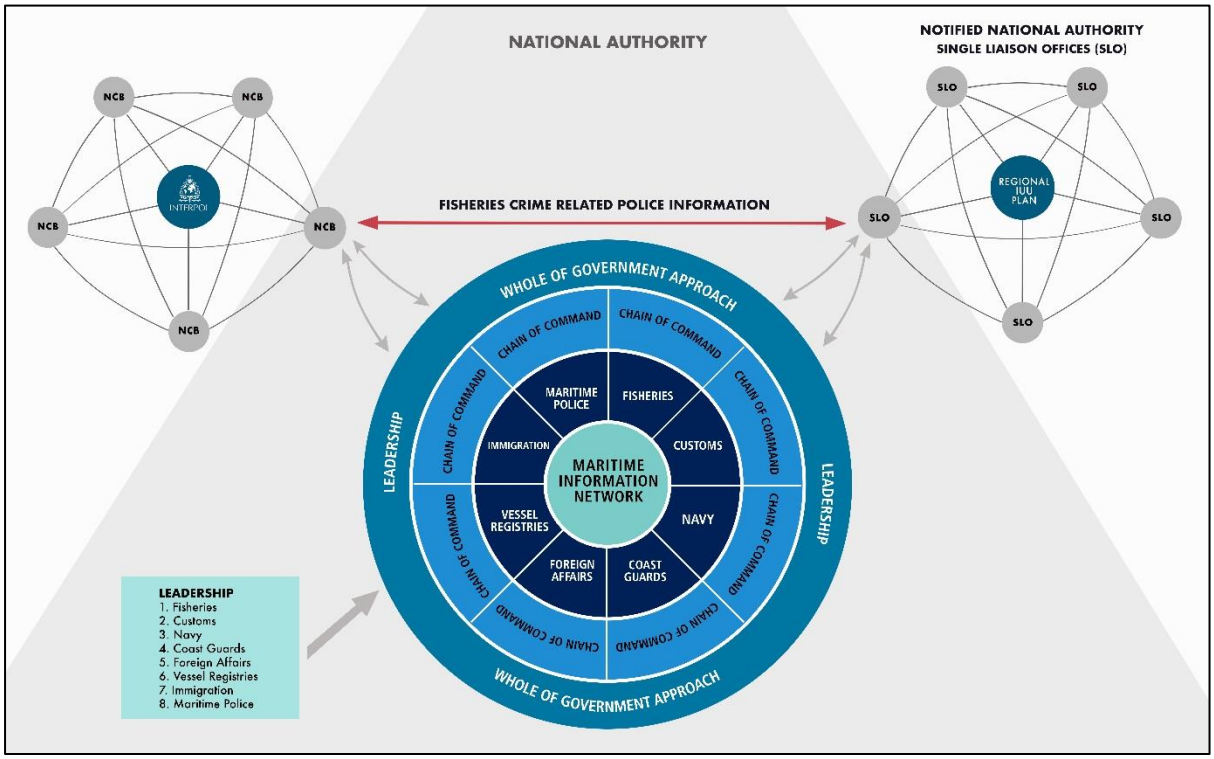

Figure 4.2: Whole of Government Approach

4.2 Case studies

Executive summary

In this section, the reader will be guided through real-life examples of international cooperation in the context of IUU fishing, fisheries crimes and other crimes committed by individuals or entities operating in the fisheries sector. The present case studies aim to illustrate the use of INTERPOL's policing capabilities in the framework of the activities of the Global Fisheries Enforcement team, including operational, tactical and analytical support across the fisheries sector.

More specifically, two cases involving requests for INTERPOL assistance were examined through a problem-oriented approach. This approach consisted of identifying the major issues raised by the cooperation between INTERPOL's member countries and international/regional stakeholders. It examines the use of INTERPOL's notices, I-24/7 messages and deployment of Investigative Support Teams (ISTs), as well as requests for mutual administrative and mutual legal assistance. A set of recommendations is included after the analysis in each section.

This study will serve as a reference for NCBs and law enforcement officials on how to enhance their response to fisheries-related offences (both criminal and administrative).

Note: It is important to understand that INTERPOL holds but does not own information of the sort sent by authorities in the below case studies, except under conditions set by the contributing NCB. INTERPOL may, however, alert a contributing NCB to the potential for sharing information with others. These arrangements can be subject to pre-set mutually agreed operational guidelines.

Case study 1

1. Factual overview

The present case involves a request from the NCB of a coastal State ("Coastal State A") for INTERPOL's assistance in facilitating international cooperation regarding fisheries-related offences at the national level. This request triggered international cooperation involving five INTERPOL member countries, the INTERPOL General Secretariat and other regional organizations.

Coastal State A located three foreign trawlers engaged in IUU fishing in its Exclusive Economic Zone (EEZ).

- In February 2016, a fisheries protection vessel (hereinafter "FPV") of Coastal State A located three foreign trawlers engaged in IUU fishing in its EEZ. The FPV subsequently:
    - Engaged in hot pursuit of one of the trawlers, heading towards the Exclusive Economic Zone (EEZ) of the Neighbouring State B;
    - Identified the name of the vessel and its Flag State C;
    - Received an authorization from the competent authorities of Neighbouring State B to continue the pursuit of the vessel in B's EEZ.

- Neighbouring State B's authorities confirmed that the vessel was authorized to fish in their EEZ. However, Neighbouring State B was unable to assist Coastal State A in hot pursuit of the vessel.

- Coastal State A's navy ordered the FPV to stop hot pursuit, as the vessel continued to flee outside of the EEZ of Neighbouring State B (see Figure 4.3 depicting the facts).

Coastal State A initiated national administrative proceedings against the identified vessel for IUU fishing in its EEZ and refusal to comply with an order to stop.

- In February 2016, the competent authorities of Coastal State A initiated national administrative proceedings against the identified vessel in response to the IUU fishing in its EEZ and the refusal to comply with an order to stop.

- Given the lack of information and evidence held by Coastal State A, its authorities engaged relevant regional and international organizations to help gather information to pursue investigative, prosecutorial and judicial solutions.

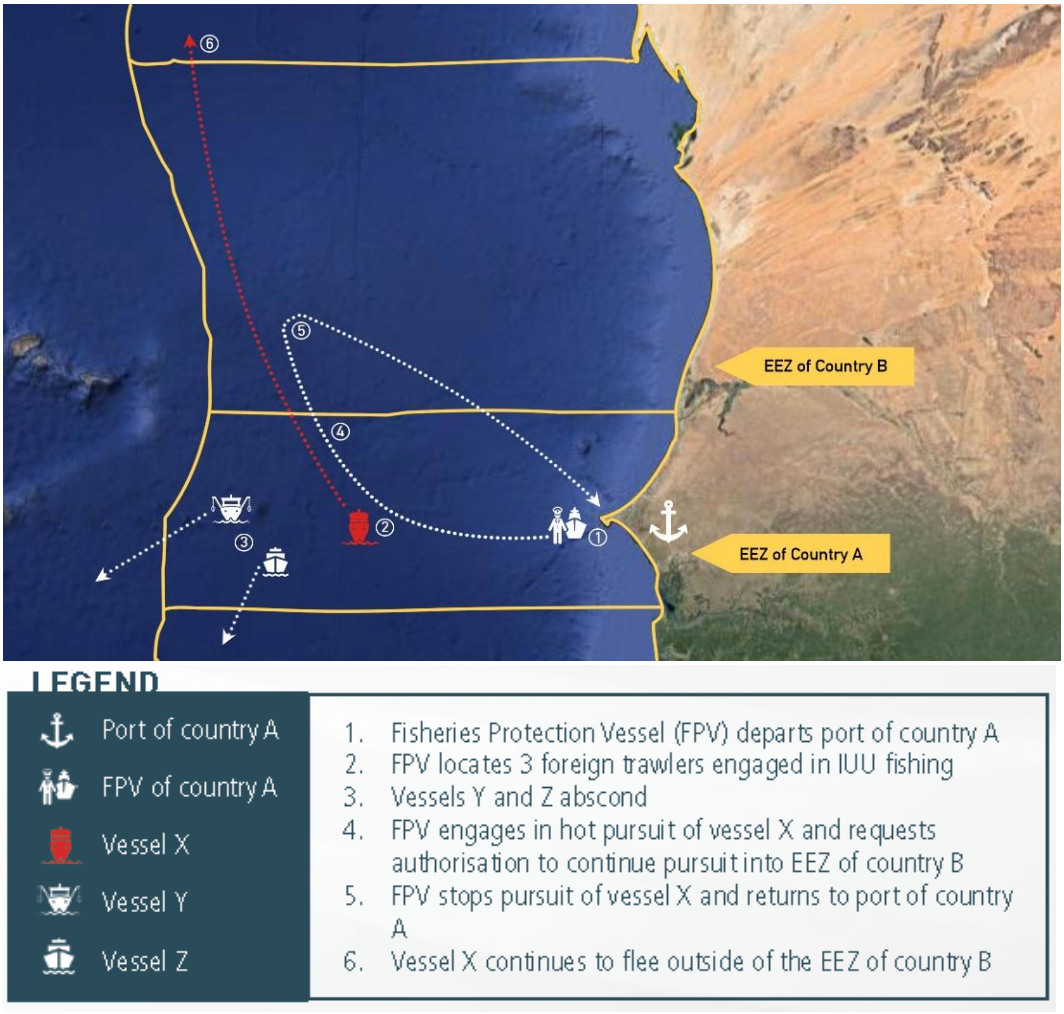

Figure 4.3: Summary of facts

Coastal State A requested INTERPOL assistance.

- In March 2016, the Sub-Regional Fisheries Commission and the Directorate-General for Maritime Affairs and Fisheries of the European Commission alerted INTERPOL's Global Fisheries Enforcement to the facts of the case.

- Coastal State A's NCB subsequently submitted a formal request for INTERPOL's assistance.

- Acting upon the request, INTERPOL shared an analytical report on the vessel's activities with the European Commission. This report pointed to the next port of call being a potential port State ("Port State D") that the vessel had previously entered frequently.

INTERPOL facilitated communication between the countries involved.

- In April 2016, INTERPOL facilitated communication between the NCBs of Coastal State A, Flag State C, and Port State D (see Figure 4.4 on international cooperation between INTERPOL's member countries).

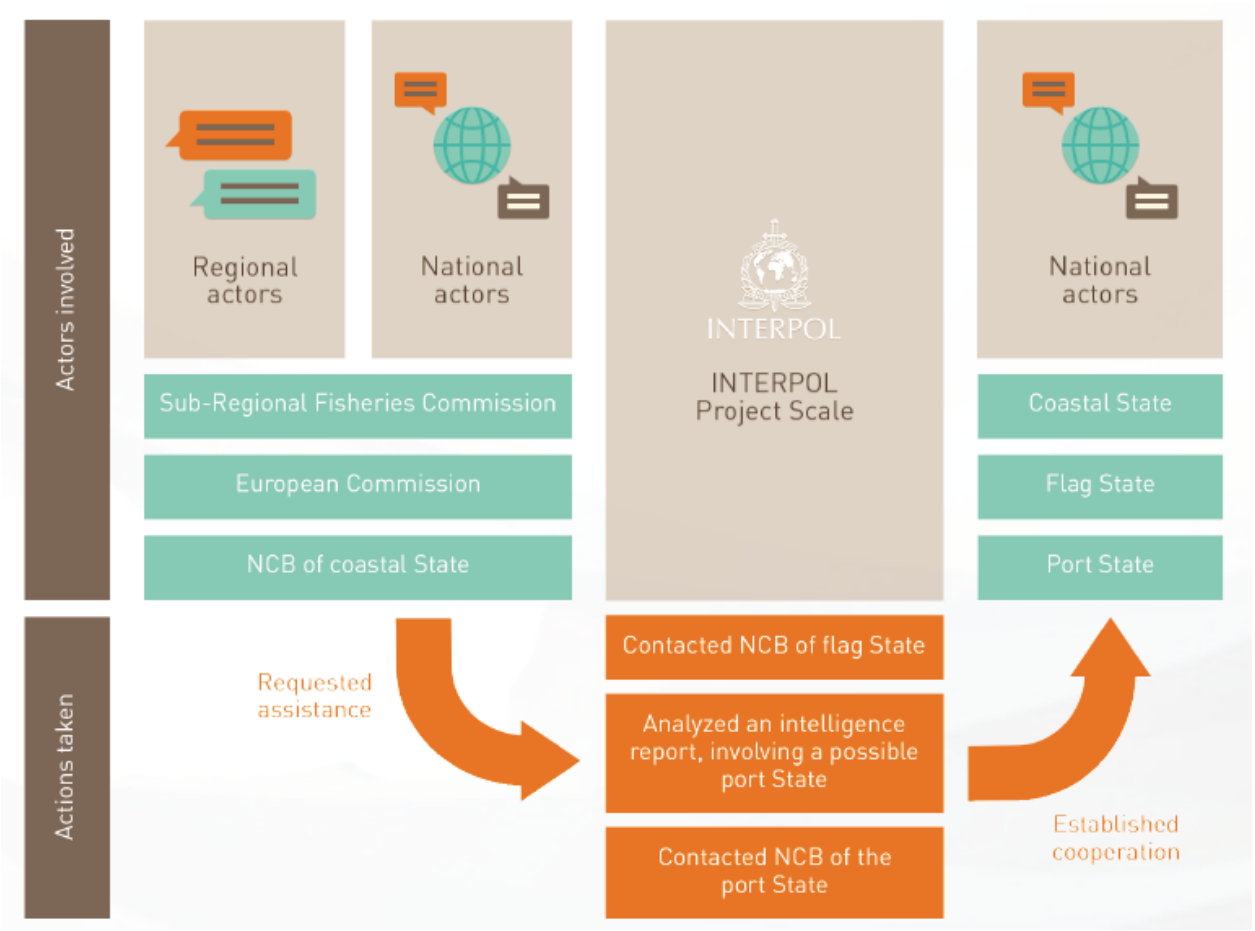

Figure 4.4: International cooperation between INTERPOL's member countries

INTERPOL facilitated the identification of the vessel's managers.

- In April 2016, INTERPOL Global Fisheries Enforcement contacted the competent authorities of Flag State C, who were able to provide:

    - contact details of the vessel's managers (located in Country E);
    - the vessel's registry certificate;
    - an international tonnage certificate;
    - a fishing license issued by Neighbouring State B.

- INTERPOL also contacted the authorities of Port State D, who were able to provide additional documentation on:

    - the vessel's identity;
    - the vessel's crew;
    - the vessel's cargo.

- Following the recommendations given by INTERPOL, the authorities of Flag State C advised the vessel's managers to contact the authorities of Coastal State A (see Figure 4.5 on establishing communication between the vessel's managers and INTERPOL's member countries).

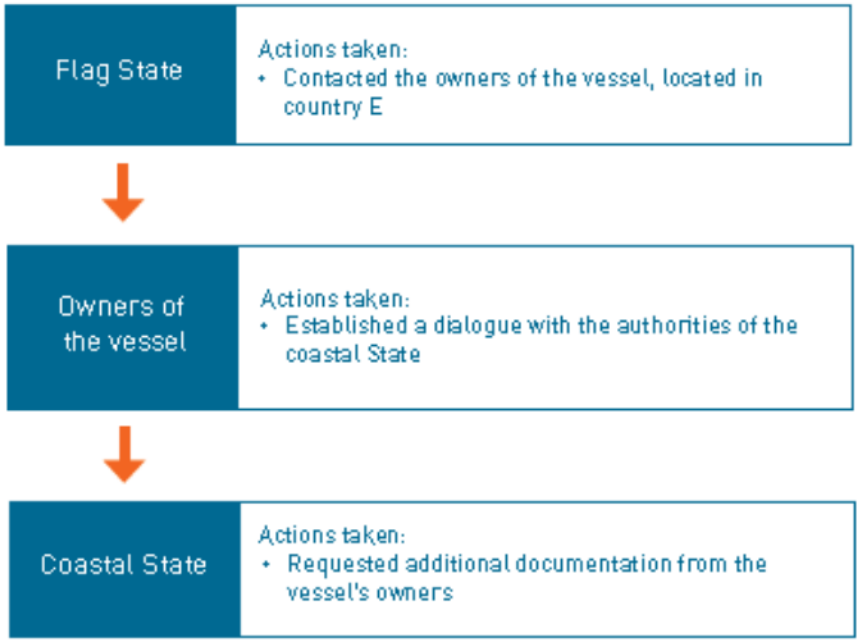

Figure 4.5: Establishing communication between the vessel's managers and INTERPOL's member countries

The successful cooperation via INTERPOL channels led to bilateral mutual assistance between the coastal and port State authorities.

- In April 2016, the fugitive vessel docked in the port of Port State D for repair and provisioning purposes.

- Port State D sent a request via the European Commission Single Liaison Office ("SLO") to Coastal State A's authorities for mutual administrative assistance, in accordance with Article 51(1) of European Union Regulation CE 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (See Chapter 2.2.2.1).

- Coastal State A's authorities confirmed they would exercise their jurisdiction over the case, and asked Port State D's authorities to inspect and detain the vessel.

- In July 2016, Coastal State A's authorities sent their national delegation to Port State D to discuss the procedure to recover the penalties imposed against the vessel's managers.

- In August 2016, Coastal State A's authorities were able to subsequently impose and recover a fine against the vessel's managers.

2. Discussion and recommendations

The facts of this case highlight three important issues relating to international cooperation on fisheries-related crimes, each of which will be discussed in turn:

1) How cooperation can be coordinated through INTERPOL NCBs;

2) IUU fishing offences risk indicators of other crimes as grounds for requesting INTERPOL participation;

3) Complementing the use of INTERPOL channels with other means of international cooperation.

1) Cooperation through INTERPOL NCBs

Issues at stake: Fisheries-related offences often cross borders, and require the involvement of the competent authorities of several States. With multiple bodies and points of contact for each case, it may be difficult to decide which course of action to take in making requests for INTERPOL assistance.

In cases requiring international cooperation, coastal State authorities should submit requests for INTERPOL assistance directly via their NCB. The NCBs are considered the contact points responsible for establishing communication channels between the competent national authorities, the NCBs of other member countries and INTERPOL General Secretariat (see Chapter 3).

Such a request allows INTERPOL Global Fisheries Enforcement to put the coastal State NCB in direct contact with the NCBs and competent national authorities of the countries involved. However, state-to-state cooperation through NCBs can take place at any time. The benefit of the Global Fisheries Enforcement team is in the analysis and facilitation of complex multiagency transnational cooperation in an enforcement environment where criminals have exploited the lack of connectivity. As practices evolve, national enforcement authorities will establish their own networks enabling their self-reliance in joint enforcement activity in fisheries cases.

Because INTERPOL may only act on requests for assistance on specific cases submitted by an NCB, all requests for INTERPOL assistance should be submitted via INTERPOL NCBs to ensure the timeliness and efficiency of the facilitated cooperation.

LESSONS LEARNED

A National Central Bureau (NCB) exercises the official police liaison functions between its national authorities, the INTERPOL General Secretariat, and other NCBs.

To capitalize on the efficiency that INTERPOL offers in facilitating international cooperation, INTERPOL's member countries should make requests directly via their relevant NCBs.

2) IUU fishing offences as risk indicators of other crimes and grounds for requesting INTERPOL participation

Issues at stake: The nature of an IUU fishing offence varies in accordance with the national legislation of the state initiating proceedings. State-to-state differences may raise concerns on whether the competent national authorities can use INTERPOL channels to communicate requests for cooperation in cases related to IUU fishing. In any given case, as the number of jurisdictions and related offences increases, the scope for multiple combinations of civil, administrative, or criminal offences rises sharply, with a corresponding increase in the number of agencies involved.

Depending on the national legislation, IUU fishing may be considered as either an administrative or criminal offence. Notwithstanding this difference in the legal classification, INTERPOL considers IUU fishing to be a risk indicator of possible other crimes, including fisheries crimes or other crimes committed by the same individuals and entities. Thus, because of the connection between IUU fishing and fisheries crimes, Global Fisheries Enforcement considers a request for cooperation in cases on IUU fishing as falling within INTERPOL's mandate, enshrined in Article 2 of INTERPOL's Constitution (see Chapter 3.1).

In the present case, Global Fisheries Enforcement noted that the fugitive vessel was engaged in IUU fishing in Coastal State A's EEZ, and that it refused to obey an order to stop given by Coastal State A's FPV. Irrespective of the legal classification of each of these offences, INTERPOL Global Fisheries Enforcement took into consideration the connection between IUU fishing and a fisheries crime of refusing to obey an order to stop as the basis underlying the request for assistance. Since offences of this nature fall within its mandate, Global Fisheries Enforcement was subsequently able to act upon this request and facilitate international cooperation between the countries involved.

IUU fishing as an indicator of other crimes. International cooperation enabled by Global Fisheries Enforcement in this case may lead to further investigation into the potential criminal activities of the fugitive vessel. Such activities, in turn, may reveal a series of other fisheries crimes or indicators thereof, such as participation in an organized criminal group or use of altered or false documents.

IUU fishing as an indicator of participation in an organized criminal group. As described in the factual overview, the coastal State FPV located three foreign trawlers engaged in fishing activities in its EEZ. Based on the additional information collected from the countries involved, the coastal State may want to investigate whether the three fugitive vessels formed an organized criminal group, and whether they had an intention to commit further serious crimes. UNTOC, which promotes the prevention of and fight against these crimes, can serve as the legal basis for international cooperation in this matter.

IUU fishing as an indicator of the use of false documents. Upon request, Flag State C provided a fishing license that the fugitive vessel had furnished as granting them the right to fish in the EEZ of Neighbouring State B. However, the appearance of licenses differs from state to state and it may be difficult for a flag State to determine if these documents are legitimate. For this reason, a flag State may wish to contact coastal States directly, to determine whether fishing licenses provided by their vessel owners are authentic, or use any other form of due diligence process to verify documents.

The use of false documents may therefore be considered an indicator of the offenders' modus operandi.

- Article 27(1)(e) of UNTOC promotes law enforcement cooperation aimed at exchanging information with other States Parties on specific means and methods used by organized criminal groups, including:

    - The use of false identities;
    - Altered or false documents; or
    - Other means of concealing their activities.

LESSONS LEARNED

It is for national agencies to establish relationships with their corresponding domestic NCB under national laws and determine the requirements for initiating police liaison capabilities and INTERPOL assistance.

Regardless of the nature of the offence, Project Scale considers IUU fishing as a risk indicator of fisheries crimes or other crimes or offences committed by the same individuals or entities.

Any NCB request for cooperation on IUU fishing is considered as falling within INTERPOL's mandate.

3) Complementing the use of INTERPOL channels with other means of international cooperation

Issues at stake: National authorities may require information in order to be able to complete domestic proceedings. To fill gaps, national authorities should engage in international cooperation with the other countries involved and choose an appropriate means of communication, complementing INTERPOL policing capabilities with alternative channels.

EU Council Regulation CE 1005/2008 Article 51(1): Mutual Assistance

The administrative authorities responsible for implementation of this Regulation in the Member States shall cooperate with each other, with administrative authorities of third countries and with the Commission in order to ensure compliance with this Regulation.

Investigative phase:

The present case may be seen as an example of the use of complementary channels of international cooperation enabling further cooperation outside of INTERPOL's systems.

- INTERPOL shared a report on the vessel's activities with Coastal State A's NCB, highlighting numerous previous port calls of the vessel in Port State D, an EU Member State.
- This information then allowed Coastal State A to identify Port State D as a possible future port of call and alert it to the vessel's potential arrival.
- Coastal State A was able to provide Port State D with further information on the vessel and its activities via the INTERPOL I-24/7 system.
- As a result, when the vessel docked in the port of Port State D in April 2016, Port State D's authorities were able to inspect and detain it.
- Consequently, Port State D's authorities submitted a formal request for bilateral assistance to Coastal State A's authorities, in accordance with the mutual assistance system provided by Article 51(1) of the EU Regulation on IUU fishing (see text box).
- The supporting EU Commission regulation clarifies that EU Member States and third countries shall designate a Single Liaison Office (SLO), which will be responsible for mutual assistance in IUU fishing matters. This is a useful model of one type of coordination mechanism for national-to-regional cooperation, but it is by no means the only model.
- Based on the information obtained through INTERPOL channels, Port State D's authorities could directly communicate with their counterparts in the coastal and flag States via their respective SLOs, thereby allowing the competent authorities of Coastal State A to complete the investigative phase.

Enforcement phase:

The present case can also serve as an example of informal information sharing to enforce a fine against offenders.

Coastal State authorities often have no jurisdiction over the assets of a vessel owner. The national authorities of a coastal State may therefore need to proceed by means of international cooperation mechanisms – either formal or informal – to successfully recover fines imposed against offenders.

In the present case, Coastal State A's authorities engaged in informal discussions with their counterparts in Flag State C via INTERPOL channels:

- Coastal State A's authorities alerted Flag State C's authorities to the facts of the case.
- Flag State C's authorities requested that the vessel's owners contact Coastal State A's authorities to begin enforcement procedures.
- Informal engagement between the competent authorities of the two States reduced the level of procedural formalities, and expedited the identification of the offenders and their location.

This case may be seen as an example of the successful use of informal cooperation through INTERPOL channels. Were informal cooperation to fail, however, and the vessel's owners had not voluntarily complied with the penalties imposed against them, formal cooperation mechanisms would have been available to the coastal State authorities by submitting an MLA request to the country of residence of the vessel's owners before taking further action.

LESSONS LEARNED

The competent national authorities should use the means of international cooperation that allow them to effectively complete proceedings at the national level.

Such cooperation may be enabled through INTERPOL channels, or may take place via other complementary cooperation mechanisms, such as EU mutual assistance or bilateral diplomatic channels.

In each case, national authorities should undertake a needs-based assessment to determine which form of assistance – formal or informal – would be most effective.

Case study 2

1. Factual overview

This case involved a request from a coastal State NCB ("Coastal State X") for INTERPOL assistance in facilitating international cooperation to complete proceedings concerning fisheries-related and other criminal offences at the national level. This request triggered international cooperation involving several INTERPOL member countries, through INTERPOL Global Fisheries Enforcement, including deployment of an Investigative Support Team.

Coastal State X located a foreign squid jig[80] vessel engaged in IUU fishing in its EEZ.

- In February 2016, an FPV of Coastal State X located a foreign jig vessel engaged in IUU fishing in its EEZ. Subsequently:
    - The FPV ordered the vessel to stop and prepare to be boarded;
    - The vessel fled, refusing to obey the FPV order to stop;
    - The FPV engaged in hot pursuit of the vessel, heading towards the EEZ of the neighbouring State ("Neighbouring State Y");
    - The FPV identified the vessel's name, as well as its flag State ("Flag State Z");
    - The authorities of Coastal State X informed the competent authorities of Neighbouring State Y of the course of the vessel, and asked them to take appropriate action.

- Neighbouring Country Y's authorities ordered the vessel to stop. However, the vessel failed to comply with the order, exited Country Y's waters towards the high seas, and turned off its Automatic Identification System (AIS) transponder.

Coastal State X and Neighbouring State Y each initiated proceedings against the vessel.

- In March 2016, the competent authorities of Coastal State X initiated two sets of proceedings against the vessel for:
    - IUU fishing in its EEZ;
    - Disobedience of an order to stop and obstruction of justice.

- In the framework of these proceedings, Coastal State X's judicial authority issued an international warrant for the vessel with a request to seize it.

- The competent authorities of Neighbouring State Y also initiated proceedings for disobedience of an order to stop.

Coastal State X's NCB requested INTERPOL assistance.

- In March 2016, Coastal State X's NCB requested INTERPOL assistance in:
    - Verifying if the fugitive vessel was known to INTERPOL;
    - Enabling international cooperation to locate, inspect and collect further information on the master, ship-owners and the cargo on board the fugitive

[80] Jig vessel: Fishing vessel specialized in squid fishing, working mostly in the southern hemisphere, with mechanized jigging lines, fishing at night using rows of powerful lamps to attract the zooplankton prey of schools of squid.

vessel, based on the international arrest warrant issued by the judicial authorities of Coastal State X.

- INTERPOL Global Fisheries Enforcement found that this request fell within its mandate and facilitated international cooperation.

    - In the present case, Global Fisheries Enforcement was informed of allegations of IUU fishing in Coastal State X's EEZ; furthermore, the vessel refused to obey an order to stop given by Coastal State X's FPV. The team took into consideration these aggravating factors underlying the request for assistance. Since offences of this nature fall within its mandate, the Global Fisheries Enforcement team was able to facilitate international cooperation.

- The Global Fisheries Enforcement team subsequently facilitated:

    - drafting of a vessel alert distributed via an I-24/7 message, intended to alert and request information on the fugitive vessel;
    - drafting of an INTERPOL Purple Notice request;
    - establishing communication with the flag State and neighbouring States on the path/route of the vessel.

Coastal State X's NCB employed INTERPOL's policing capabilities.

- Coastal State X circulated an I-24/7 message with the purpose of alerting and requesting information from a specific subset of INTERPOL's member countries likely to have information on the fugitive vessel;

- It also requested a publication of an INTERPOL Purple Notice.

The circulated I-24/7 message elicited a response from two recipient NCBs which had located the vessel.

- Within a very short time after the alert and Purple Notice were distributed, a number of INTERPOL Member States provided AIS tracking information for the vessel. Two of the recipient NCBs provided information on the location of the vessel and its course.

- However, validation of the signal was needed to confirm that the signal corresponded to the vessel in question and not to a falsified position or identity.

- The Global Fisheries Enforcement team then alerted the neighbouring States to the intended course of the vessel. The first State along this course confirmed that the vessel did not enter its ports.

- The team contacted the remaining neighbouring States to ask for their assistance in confirming the vessel's identity and location.

- The first State ("Country G") subsequently deployed a police helicopter, but was unable to locate the vessel due to poor weather conditions.

- The second State ("Country I") agreed to deploy their FPV which:

    - located the vessel;
    - photographed the vessel;
    - confirmed its identity;
    - confirmed that the estimated tracking records corresponded to the tracking records of the fugitive vessel and that AIS signals were highly likely to be genuine transmissions from the vessel.

Docking of the vessel in the port State.

- The Global Fisheries Enforcement team alerted the competent authorities of Port State J to the intended course of the vessel.

- Port State J deployed an FPV to intercept and inspect the vessel, but due to its refusal to stop, it engaged in pursuit of the vessel. After the vessel had already entered the territorial waters of Port State J, it again disobeyed an order to stop and thus Port State J exercised its national jurisdiction to arrest the vessel with the support of two other FPVs.

- The vessel was routed to a port of Port State J.

INTERPOL-facilitated cooperation resulted in bilateral cooperation between Coastal State X and the authorities of Port State J.

- In April 2016, the competent maritime authorities of Port State J detained the vessel.

    - Port State J's NCB contacted Coastal State X's NCB to inform them that Port State J had provisionally detained the vessel in its port for 24 hours;
    - Port State J requested that Coastal State X communicate a judicial decision allowing for further detention.

- The judicial authorities of Coastal State X communicated through its Ministry of Foreign Affairs a judicial decision ordering the detention of the vessel and authorizing the search and seizure of evidence on the vessel.

Port State J's NCB requested the deployment of an INTERPOL Investigative Support Team.

- In April 2016, Port State J's NCB submitted a request for the deployment of an INTERPOL Investigative Support Team (IST) to assist their national authorities in collecting information from the vessel's digital equipment, including mobile phones, computers and GPS systems, as requested by Coastal State X.

- The INTERPOL General Secretariat approved the deployment of the Global Fisheries Enforcement team's specialized Digital Crime Officer from IGCI-DFL[81] to assist Port State J in the search of the vessel and analysis of the collected information and evidence.

- Port State J's NCB was then able to provide Coastal State X's NCB with an updated report concerning the collected information and evidence.

[81] IGCI-DFL: INTERPOL Global Complex for Innovation – Digital Forensic Lab.

Transfer of the vessel.

- In May 2016, Port State J's authorities transferred the vessel to the competent authorities of Coastal State X.

- The judicial authorities of Coastal State X imposed penalties against the captain and ship-owner of the vessel, and seized its cargo. The vessel and its crew were released after payment of fines to Coastal State X.

- Coastal State X updated the Purple Notice to reflect the outcome of the case.

2. Discussion and recommendations

The facts of this case highlight three main issues relating to international cooperation in fisheries-related crimes, each of which will be discussed in turn:

1) Differentiating between INTERPOL notices, diffusions and I-24/7 messages;

2) Formal bilateral cooperation;

3) Deployment of Investigative Support Team.

1) Differentiating between INTERPOL notices, diffusions, and I-24/7 messages

Issues at stake: INTERPOL member countries are encouraged to use all relevant INTERPOL policing capabilities via their NCBs.

Member countries are reminded that alternatives to the most formal policing capability – INTERPOL notices – may also be effective in facilitating information sharing and international cooperation.

The type of policing capability that provides the best fit depends on the type of data being requested and whether all or only some members should be contacted.

INTERPOL offers a variety of options for data transmission by competent authorities, such as INTERPOL colour-coded notices, diffusions and I-24/7 messages (for an explanation of the key differences between notices, diffusions and I-24/7 messages, refer to Chapter 3).

As the factual overview of the present case study showed, different policing capabilities may be used depending on the nature of the request for police cooperation. As shown in this case study, different INTERPOL tools should be used for requests for assistance and alerts concerning vessels involved in fisheries crimes and offenders (or suspected offenders) involved in such crimes.

Requests or alerts related to an absconded vessel

How to choose the appropriate INTERPOL policing capability with regard to the fugitive vessels?

The competent national authorities can choose to address requests/alerts through:

- Vessel alert messages; and/or
- INTERPOL notices.

Vessel alert messages (see Chapter 3.2):

- Contrary to Purple Notices, vessel alert messages can be issued directly by Member States without the involvement of the General Secretariat.

- Coastal, port, flag, and other cooperating States are encouraged to circulate such messages on their own initiatives, as they may be used to share information even before a Purple Notice is requested and published.

- Vessel alert messages may be circulated to chosen recipients for all fisheries-related offences, regardless of the nature of the offence. Alerts are a useful tool to initiate basic state-to-state cooperation in IUU enforcement matters, such as to verify licensing status, Vessel Monitoring System tracking data and fishing log book records; to cross-check these data against each other; and to develop requests for further international cooperation.

Purple Notices:

- Coastal State NCBs can request the publication of a Purple Notice to all countries for two operational purposes:

  1. **Warning about modi operandi** of the IUU and fisheries crimes offenders, including details on:

     - falsification of vessel identities;
     - abuse of flag registries;
     - hiding in plain sight and absconding;
     - obstruction of justice at sea or leaving port in breach of a detention order.

  2. **Requesting information on the offences for which the vessel, its captain, and owners are sought by the authorities of the coastal State, such as:**

     - precise location of the fugitive vessel;
     - vessel's documentation, including fishing license, registration certificate, etc.;
     - crew list;
     - cargo manifest;
     - ship-borne equipment data.

- In accordance with INTERPOL's Rules on the Processing of Data, Purple Notice requests can be submitted:

  - during the investigative phase for the highest risk cases, involving serious offences;
  - after the completion of an investigation, for complex or different modi operandi.

- Requests for Purple Notices shall be sent by a country's NCB to INTERPOL Command and Coordination Centre via the I-24/7 system (os-ccc@gs.igcs.int) for final review and publication.

- The following table can assist national authorities in their choice of the relevant policing capability to be used.

Requests related to vessels involved in fisheries crimes ***Example: Information regarding fugitive vessels***			
INTERPOL's policing capabilities	**Purposes**	**Target audience**	**Specific conditions**
Vessel alert message	Alert Request information	*All NCBs or only selected NCBs*	- Contains data which is not usually recorded in INTERPOL's databases - Contains data that is accurate, relevant, not excessive in relation to its purpose and up to date
Purple Notice	Warn about modi operandi, objects, devices or concealment methods used by offenders Request information	*Target audience: all NCBs.*	<u>Facts still under investigation:</u> Serious offences To draw attention to a specific modus operandi, object, device or concealment method Contains sufficient data for matches to be made with similar offences
			<u>Facts no longer under investigation:</u> Complex and unique modus operandi To prevent repeat offences; Contains sufficient data to allow effective prevention

Application of policing capabilities in the present case.

- The coastal State authorities effectively used both policing capabilities: the vessel alert message and an INTERPOL Purple Notice.

- On behalf of the coastal State, the General Secretariat sent a vessel alert message to the NCBs concerned, following the estimated course of the vessel. This policing capability allowed the rapid flow of information between the coastal State NCB and specifically targeted recipient NCBs which were kept informed throughout the tracking of the vessel's course as updates were sent by the coastal State and INTERPOL.

- At the same time, Coastal State X's NCB requested the publication of a Purple Notice, given that the facts of the case were still under the investigation, and that the case involved a criminal offence, which could serve as an indicator of the commission of serious crimes. Although more time-consuming (in comparison to vessel alert messages), this policing capability allowed the widening of the spectrum of the notified NCBs who could potentially provide Coastal State X with information on the case.

Requests Concerning Perpetrators (or Suspected Perpetrators) of Fisheries Crimes

How to choose the appropriate INTERPOL policing capability with regard to IUU and fisheries crimes perpetrators?

- If the competent national authorities identify the offenders or suspects against whom the proceedings are initiated, and if they are not located within the national territory, competent authorities are encouraged to use all relevant INTERPOL policing capabilities via their NCBs to complete the domestic proceedings.

- In the fisheries sector, the offenders may be:

    - captains of the vessel;
    - vessel owners; and/or
    - vessel crew.

How to choose the appropriate INTERPOL policing capability with regard to these categories of offenders?

- In this case, the competent national authorities can choose among the policing capabilities that are tailored to send requests or alerts about offenders or suspected offenders. These include Red, Blue or Green Notices, and their corresponding diffusions.

- The table on the following page can assist the national authorities in their choice of the relevant policing capability to be used.

Requests Concerning Perpetrators or Suspected Perpetrators: INTERPOL Red/Blue/Green Notices ***Example: Information specifically relating to the captain of the vessel or vessel's owners.***		
	Purposes	**Conditions**
Red Notice	Locate, detain, and arrest a wanted person with a view to extradition or similar lawful action	Serious ordinary law crime Penalty threshold: o For prosecution: 2+ years o To serve sentence: 6+ months Minimum identification requirements Minimum required judicial information A national arrest warrant or an equivalent judicial order
Blue Notice	Collect additional information about a person's identity, location or activities in relation to a crime.	Sufficient information about ongoing investigation Minimum identification requirements
Green Notice	Provide warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.	Minimum identification requirements: o The person is considered to be a possible threat to public safety o A national law enforcement agency has assessed the threat o Conclusion based on one or more previous convictions, or on reasonable grounds

Diffusions	
May be used when: ➢ ***A request does not justify or qualify for the publication of a notice; or*** ➢ ***An NCB wishes to limit the circulation of its cooperation request/alert.***	
Purposes	**Conditions**
- Wanted person diffusion: arrest, detain or restrict the movements of a convicted or accused person - Blue diffusion: locate and/or identify and/or obtain additional information - Green diffusion: warn about a person's criminal activities	- Quality and lawfulness of the data - Compliance with INTERPOL's rules and general conditions for recording data - Data are of interest for the purposes of international police cooperation

Examples of possible use of the above policing capabilities against offenders.

- ***Example of the use of a Red Notice and a wanted person diffusion.***

  - An individual has been charged with illegal fishing in a protected environmental zone and flees; an arrest warrant or an equivalent judicial decision has been issued against him or her. A member country may then wish to request a Red Notice to locate and arrest the individual, with a view to extradite him/her. Publishing a Red Notice is an effective way to circulate information on the offender to all member countries; however, the requirements for publication may be difficult to meet. If the offence does not meet the penalty threshold, the country may nevertheless circulate a wanted person diffusion, without resorting to a Red Notice.

  - A wanted person diffusion may also be used in place of a Red Notice if the requesting NCB wishes to circulate the request to arrest the individual based on the national arrest warrant to only select member countries, or if the allegations to not meet the requirements for a Red Notice, for example, the penalty warrant threshold.

  - A Red Notice is issued in a case of complex fraud involving the owner of multiple fish processing plants and import and export businesses, each in different jurisdictions. The operator was convicted on the basis of conspiracy and fraud in collusion with vessel owners who wrongly declared their catches following instructions given by the owner of the processing plants to alter log-books and invoices. The national authorities may seek the publication of a Red Notice so that the wanted person is returned to serve his or her sentence.

- ***Example of the use of a Blue Notice and its corresponding diffusion.***

    - An individual is believed to be engaged in illegal fishing, as well as participating in an organized criminal group. In order to advance a pending criminal investigation, the country's NCB may wish to request a Blue Notice to obtain more information, locate, and identify the individual in question.

    - Similarly to Red Notices, if the requesting NCB wishes to select the recipient NCBs, a corresponding diffusion may also be used in place of a Blue Notice.

- ***Example of the use of a Green Notice and its corresponding diffusion.***

    - A certain country has reasonable grounds to believe that an individual who was previously convicted for fisheries or other crimes is engaged in illegal fishing and other fisheries crimes. In order to warn other member countries about the criminal activity of the person in question, that country's NCB may request the publication of a Green Notice. A Green Notice provides member countries with warnings and information regarding persons likely to repeat criminal activity in other countries. As such, Green Notices are particularly relevant with regard to fisheries crimes, which often transgress borders. To meet the requirements for publication, the individual must be believed to constitute a threat to public safety. Alternatively, previous convictions may be sufficient ground for the publication of such a notice.

    - Other examples include the use of firearms at sea, criminal assaults by officers on crew in conditions of forced labour and the use of poisons or explosives to catch fish.

    - Similarly, if the requesting NCB wishes to select the recipient NCBs, a corresponding diffusion may also be used in place of a Green Notice.

LESSONS LEARNED

Member countries are encouraged to use INTERPOL policing capabilities in order to issue alerts for the highest risk fisheries cases.

While INTERPOL notices may have the highest threshold for publishing, they are the widest-reaching of the INTERPOL policing capabilities.

Where the conditions for the publication of a notice cannot be met, or where member countries would like to limit circulation, member countries are nevertheless encouraged to circulate diffusions.

Additionally, as diffusions may be circulated to select NCBs, member countries are encouraged to use this policing capability.

NCBs should not underestimate the value of information exchange via I-24/7 channels prior to the publication of a notice.

2) Formal bilateral cooperation

Issues at stake: When a fugitive vessel is detained under the jurisdiction of a port State, the national authorities of the port State and any other relevant States (for example, coastal State(s), flag State(s), or market State(s)) may need to cooperate in order to complete the ongoing proceedings concerning the vessel. In such cases, the coastal State can use mutual legal assistance in criminal matters to guarantee the collection of evidence in such a manner as to ensure it will be admissible during court proceedings.

The mechanism of mutual legal assistance in criminal matters can be used to facilitate domestic proceedings against fisheries offenders in coastal States (see Chapter 2.4.2 for a discussion on mutual legal assistance).

In some cases, it is also possible to obtain certain information without using official channels and without submitting a formal request.

Mutual legal assistance (MLA) procedure

- In general, mutual legal assistance is conducted between the governmental authorities of two countries. This can be a time-consuming procedure, often used, for example, when it is necessary to obtain judicially admissible evidence.

- Attention should be paid to the special features of the procedures in each country in order to ensure that evidence is admissible in the criminal proceedings of the requesting country.

Example of mutual legal assistance (MLA) achieved between judicial and law enforcement authorities

The present case may be seen as an example of the use of complementary mechanisms of mutual legal assistance:

- The authorities of the coastal State initiated criminal proceedings against the vessel.
- The judicial authorities of the coastal State officially requested that the port State detain the vessel and any crew members if necessary, and requested that the maritime authorities of the port State collect and examine relevant evidence.
- The port State passed all collected evidence from the search and seizure of the vessel to the coastal State via diplomatic channels. (Note: in this case, the States used diplomatic channels to transfer the evidence, but this may slow the passage of evidence and may only be necessary depending on the domestic legislation of the States involved).
- On the basis of the evidence received from the port State, the authorities of the coastal State were able to issue a fine against the vessel.
- After the fine was paid by the owners of the vessel, the competent court ruled on the discontinuity of the case.

In the framework of MLA in criminal matters, the competent authorities of the States involved (e.g., in this case, the coastal State and the State of the vessel's owners) can also use INTERPOL's I-24/7 network to transmit MLA requests for examination by the competent national authorities of the requested State. Additionally, the responding authorities can use the system to transmit the results of the mutual legal assistance requests back to the requesting

State. This can be done as a precursor or in parallel to the formal communication of the MLA requests via other channels (e.g., diplomatic channels). In certain instances, for example in urgent situations as referred to under UNTOC, UNCAC and several bilateral treaties, INTERPOL's I-24/7 network can also be used as the primary channel for communication of MLA requests if the national legislation of the requesting and requested States allows for this.

LESSONS LEARNED

The national authorities should use all means available to them in order to effectively complete the investigation of cases involving IUU fishing.

Such support can be provided outside of INTERPOL channels as countries may cooperate bilaterally under agreements for mutual legal assistance to gather evidence and to communicate the findings so that such evidence can be admissible in the court proceedings of the requesting country. INTERPOL channels may nonetheless be used in support of the formal MLA requests or in urgent matters (as provided in UNTOC and UNCAC).

3) Deployment of Investigative Support Teams (ISTs)

Issue at stake: After successful detention of a vessel engaged in illegal IUU fishing, evidence needs to be collected and analysed.

The national authorities of the countries involved may request INTERPOL's assistance to deploy an Investigative Support Team (IST) in order to provide support in the collection of information on the case.

The Investigative Support Team can be deployed only after specific procedures are followed.

Procedure for deployment of Investigative Support Team

- A request for assistance should be sent to the General Secretariat via an NCB;
- The request should contain specific minimum information;[82]
- INTERPOL will assess the request based on numerous criteria, including the seriousness of the situation, resources available based on the nature of the investigative needs and the timeframe and ability to respond.

Based on the evaluation of the request, INTERPOL will take a decision on the deployment of an Investigative Support Team. If the deployment is approved, mission preparation begins.

ISTs support, but do not replace, national law enforcement authorities.

In the present case, after a successful operation to track the vessel, the vessel was then brought under the jurisdiction of the port State. In order for the case evidence to be collected and assessed in its entirety, the port State requested the deployment of an IST to fulfil the request made by the coastal State. As a result, after the assessment process mentioned above was completed, an INTERPOL Global Complex for Innovation Digital Crime Officer worked in conjunction with the port State forensics experts. Evidence was successfully collected and analysed and provided to the coastal State for use in the prosecution.

The present case is an example of the successful use of INTERPOL's on-the-ground policing capabilities. INTERPOL has the necessary expertise not only to facilitate cooperation, but also to deploy highly qualified experts to assist member countries in the investigation process.

LESSONS LEARNED

Member countries are encouraged to use all available INTERPOL policing capabilities in order to fight IUU fishing and related crimes.

Investigative Support Team missions provide effective on-the-ground support and expertise to member countries in order to effectively complete the investigation process.

NCBs should be aware of the option to request the deployment of an IST mission, at no cost to the requesting country.

[82] Including background of the case file, Assistance Request Details (investigative needs), and Case File Information, such as the Requesting Agency, Case File Number, and Case File Officer.

Note on additional INTERPOL capabilities

INTERPOL can assist in additional ways after the conclusion of an investigation, including:

1) assistance in follow-up issues, such as analysis, after domestic proceedings have concluded;
2) training on cooperation mechanisms at the national level;
3) strengthening the relationship among international/regional/national stakeholders in the fisheries sector.

1. Assistance in follow-up issues after domestic proceedings have concluded

Upon the completion of domestic proceedings, the competent authorities may wish to follow up on high risk cases and/or use appropriate international cooperation mechanisms to draw attention to a specific modus operandi used by the offenders in order to prevent repeat offences.

These mechanisms include the use of INTERPOL policing capabilities, such as INTERPOL Purple Notices (see Chapter 3 for more information on INTERPOL notices).

For example, in Case Study 1, if Coastal State A's authorities later determine that the *modus operandi* used by the fugitive vessels is complex and different from other identified *modi operandi*, they may submit a Purple Notice request in order to prevent similar offences from being repeated by the same offenders or other offenders using similar methods in other INTERPOL member countries.

2. Training on the use of cooperation mechanisms

Given the value of international cooperation in domestic proceedings, competent national authorities are encouraged to enhance their training on the use of the cooperation mechanisms.

NCBs are invited to complete training courses provided by the INTERPOL General Secretariat, such as a 60-minute module on collecting and exchanging information and evidence at the international level. This training course aims to outline the differences between informal and formal assistance mechanisms, particularly when exchanging police information. It also presents the role that INTERPOL plays in this process.

3. Strengthening the relationships among international/regional/national stakeholders in the fisheries sector

Given the cross-border nature of IUU fishing and fisheries crimes, cooperation between various national, regional, and international entities is crucial. These cases demonstrated the effectiveness of cooperation between the NCBs of coastal, flag and port States, the Single Liaison Offices (SLOs), and INTERPOL General Secretariat.

Accordingly, it is important to strengthen the relationship among all relevant stakeholders in the fisheries sector. The potential benefits of greater coordination may include:

- enhancing the response and knowledge in addressing IUU fishing and related matters;
- exchanging relevant information in a timely manner;
- reinforcing mutual awareness;
- avoiding duplication;
- preparing joint actions, projects and training courses.

GLOSSARY

The definitions in this glossary are provided for the purposes of this handbook using relevant international sources.

Term	Definition	Source
Asset recovery	The return of stolen property, to include assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets, from a foreign jurisdiction.	UNCAC Article 2(d); UNODC Asset Recovery Handbook
Beneficial owner	The ultimate beneficial ownership or interest in an asset by a natural person. In some situations, uncovering the beneficial owner may involve piercing through various intermediary entities and/or individuals until the true owner who is a natural person is found.	OECD Model Tax Convention (2014 Update)
Catch documentation scheme (CDS)	A system that tracks and traces fish from the point of capture through unloading and throughout the supply chain. A CDS records and certifies information that identifies the origin of fish caught and ensures they were harvested in a manner consistent with relevant national, regional and international conservation and management measures. The objective of the CDS is to combat IUU fishing by limiting access of IUU fish and fishery products to markets.	Report of the Expert Consultation on Catch documentation schemes (CDS), Rome, 20-24 July 2015
Conservation and management measures	Measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law**.**	FAO PSMA Article 1
RMFO Cooperating Non-Member	Any non-Contracting Party to an RFMO that voluntarily ensures that vessels flying its flag fish in a manner which is in conformity with the conservation measures adopted by the RFMO.	IOTC Resolution 99/04 On The Status Of Cooperating Non-Contracting Parties
Fish	All species of living marine resources, whether processed or not.	FAO PSMA Article 1
Fisheries crime	An umbrella term used by this Guide to describe crime in the entire fisheries sector, from harvest to processing, through the supply chain, including food fraud at consumer levels. The terminology also refers to well-established criminal offences which facilitate crime in the fisheries sector, such as blackmail, conspiracy and bribery.	See Chapter 1.1
Fishing vessel	Any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in such fishing operations.	FAO Agreement To Promote Compliance With International Conservation And Management Measures By Fishing Vessels On The High Seas

Flag State	The State which shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.	UNCLOS Article 94
Mutual legal assistance	The process by which a State provides assistance to another State in gathering evidence for use in criminal investigations and proceedings.	Refer to Chapter 2.4.2 on Mutual Legal Assistance
Open register	A State that operates an open register will accept vessels owned by nationals from other States, which will then fly the flag of the open registry State.	Fishing Vessels Operating under Open Registers and the Exercise of Flag State Responsibilities - Information and Options FAO Fisheries Circular No. 980 FIPP/C980 ISSN 0429-9329
Operator (also known as manager)	The individual or entity acting on behalf of the owner for the operation of a fishing vessel or a fishing operation.	FAO Technical Guidelines for Responsible Fisheries
Port State	A State with jurisdiction over offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying.	FAO PSMA Article 1
Regional Fisheries Management Organisation	Intergovernmental fisheries organization or arrangement, as appropriate, which has the competence to establish fishery conservation and management measures.	Refer to Chapter 1.2.3
Registered owner	An individual or entity holding shares in a fishing vessel or fishing license; may or may not be the same individual or entity as the beneficial owner.	FAO Technical Guidelines for Responsible Fisheries
Supply chain	The supply chain for fish and fishery products can involve a large number of stakeholders between the fisherman/fish farmer and the final consumer. There are four possible routes fish caught by a foreign fleet may make its way to the consuming nation: 1) it may be exported directly after harvest; 2) it may be exported after only primary processing occurs within the foreign harvesting nation; 3) it may be exported after both primary and secondary processing occur within the foreign harvesting nation; or, 4) it may be exported after harvest to a third country processor which will then re-export the product to the consuming nation.	Value chain of fish and fishery products: origin, functions and application in developed and developing country markets, FAO, 2011
Transshipment	The act of transferring the catch from one fishing vessel to either another fishing vessel or to a vessel used solely for the carriage of cargo.	FAO Technical Guidelines for Responsible Fisheries
Vessel	Any vessel, ship of another type, or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.	FAO PSMA Article 1

ACRONYMS

AFIS	Automated Fingerprint Identification System
CACFish	Central Asian and Caucasus Regional Fisheries and Aquaculture Commission
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCBSP	Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DNA	Deoxyribonucleic Acid
EC	European Council
EEZ	Economic Exclusive Zone
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FCWG	Fisheries Crime Working Group
FFA	Forum Fisheries Agency
GFCM	General Fisheries Commission for the Mediterranean
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICCWC	International Consortium on Combating Wildlife Crime
ICIS	INTERPOL Criminal Information System
ICSE	International Child Sexual Exploitation
IFRT	INTERPOL Firearms Reference Table
ILO	International Labour Organization
IMO	International Maritime Organization
INTERPOL	International Criminal Police Organization
IOTC	Indian Ocean Tuna Commission
IPHC	International Pacific Halibut Commission
IPOA	International Plan of Action
IRT	Incident Response Team
IST	Investigative Support Team
IUU	Illegal, Unreported and Unregulated fishing
IWC	International Whaling Commission
JIT	Joint Investigative Team
LVFO	Lake Victoria Fisheries Organisation
MAA	Mutual Administrative Assistance
MARPOL	International Convention for the Prevention of Pollution from Ships
MCS	Monitoring Control and Surveillance
MEA	Multilateral Environmental Agreement
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
N/A	Not applicable
NAFO	Northwest Atlantic Fisheries Organization
NASCO	North Atlantic Salmon Conservation Organization
NCB	National Central Bureau
NEAFC	North-East Atlantic Fisheries Commission
NESS	National Environmental Security Seminar
NESSC	National Environmental Security Steering Committee

NEST	National Environmental Security Task Force
NGO	Non-Governmental Organization
nm	Nautical mile
NPAFC	North Pacific Anadromous Fish Commission
NPFC	North Pacific Fisheries Commission
OAS	Organization of American States
OECD	Organisation for Economic Cooperation and Development
PCS	Pacific Commission Salmon
PSMA	Port State Measures Agreement
RECOFI	Regional Commission for Fisheries
RFMO	Regional Fisheries Management Organisation
RFO	Regional Fisheries Organisation
RIACM	Regional Investigative and Analytical Case Meeting
RPOA	Regional Plan of Action
SAD	Stolen Administrative Documents
SEAFO	South East Atlantic Fisheries Organisation
SIOFA	South Indian Ocean Fisheries Agreement
SLTD	Stolen and Lost Travel Documents
SMV	Stolen Motor Vehicles
SPRFMO	South Pacific Regional Fisheries Management Organisation
SRFC	Sub-Regional Fisheries Commission
STAR	Stolen Asset Recovery Initiative
TAAF	French Southern and Antarctic Territories
TMT	Trygg Mat Tracking
UNCAC	United Nations Convention against Corruption
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNFSA	United Nations Fish Stock Agreement
UNGA	United Nations General Assembly
UNICPOLOS	United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
US	United States of America
USD	United States Dollars
VAT	Value-Added Tax
WCO	World Customs Organization
WCPFC	Western and Central Pacific Fisheries Commission
WTO	World Trade Organization

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United Nations Convention against Transnational Organized Crime (UNTOC), adopted in New York on 15 November 2000, entered into force on 29 September 2003

United Nations Convention on the Law of the Sea (UNCLOS), adopted in Montego Bay on 10 December 1982, entered into force on 16 November 1994

United Nations Fish Stocks Agreement (UNFSA), adopted in New York on 4 August 1995, entered into force on 11 December 2001

Regional instruments

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V. NATIONAL LEGISLATION

United States of America

The Lacey Act, 18 United States Code (USC) 42-43; 16 USC 3371-3378

APPENDIX I: LIST OF RATIFICATIONS OF INTERNATIONAL INSTRUMENTS*

**As of December 2017*

	Member
	Cooperating non-member

	UNCLOS	UNFSA	FAO Compliance Agreement	PSMA	UNTOC	UNCAC	CITES	UN Drug Convention	ILO Convention C188	OECD Anti-bribery Convention	International Convention on MA	Ship Arrest Convention	MARPOL 73/78
AFGHANISTAN					■	■	■	■					
ALBANIA	■		■	■	■	■	■	■			■	■	■
ALGERIA	■				■	■	■	■			■	■	■
ANDORRA					■			■					
ANGOLA	■		■		■	■	■	■	■				■
ANTIGUA AND BARBUDA	■				■	■	■	■					■
ARGENTINA	■		■		■	■	■	■	■	■			■
ARMENIA	■				■	■	■	■					
ARUBA													
AUSTRALIA	■	■	■	■	■	■	■	■		■	■		■
AUSTRIA	■	■		■	■	■	■	■		■	■		■
AZERBAIJAN	■				■	■	■	■			■		■
BAHAMAS	■	■		■	■	■	■	■					■
BAHRAIN	■				■	■	■	■					■
BANGLADESH	■	■			■	■	■	■					■
BARBADOS	■	■	■	■	■	■	■	■					■
BELARUS	■				■	■	■	■			■		■
BELGIUM	■	■		■	■	■	■	■		■			■
BELIZE	■	■	■		■	■	■	■					■
BENIN	■	■	■		■	■	■	■				■	■
BHUTAN						■	■	■					
BOLIVIA	■				■	■	■	■					■
BOSNIA AND HERZEGOVINA	■				■	■	■	■	■				
BOTSWANA	■				■	■	■	■					
BRAZIL	■	■	■		■	■	■	■		■			■
BRUNEI	■				■	■	■	■					■
BULGARIA	■	■		■	■	■	■	■		■		■	■
BURKINA FASO	■				■	■	■	■					
BURUNDI					■	■	■	■					
CAMBODIA					■	■	■	■					■
CAMEROON	■				■	■	■	■					■
CANADA	■	■	■		■	■	■	■		■	■		■
CAPE VERDE	■		■	■	■	■	■	■					■
CENTRAL AFRICAN REPUBLIC					■	■	■	■					
CHAD	■				■		■	■					
CHILE	■	■	■	■	■	■	■	■		■			■
CHINA	■				■	■	■	■					■
COLOMBIA					■	■	■	■		■			■
COMOROS	■				■	■	■	■					■
CONGO	■				■	■	■	■	■			■	■
COSTA RICA	■	■		■	■	■	■	■		■			

	UNCLOS	UNFSA	FAO Compliance Agreement	PSMA	UNTOC	UNCAC	CITES	UN Drug Convention	ILO Convention C188	OECD Anti-bribery Convention	International Convention on MA	Ship Arrest Convention	MARPOL 73/78
CÔTE D'IVOIRE	■				■	■	■	■			■		■
CROATIA	■	■		■	■	■	■	■			■		■
CUBA	■			■	■	■	■	■			■		■
CURAÇAO													
CYPRUS	■	■	■	■	■	■	■	■			■		■
CZECH REPUBLIC	■	■		■	■	■	■	■		■	■		■
DEMOCRATIC REPUBLIC OF THE CONGO	■				■	■	■	■					
DENMARK	■	■		■	■	■	■	■		■		■	■
DJIBOUTI	■				■	■	■	■					■
DOMINICA	■			■	■	■	■	■					■
DOMINICAN REPUBLIC	■				■	■	■	■					■
ECUADOR	■	■			■	■	■	■				■	■
EGYPT	■		■		■	■	■	■					■
El SALVADOR					■	■	■	■					■
EQUATORIAL GUINEA	■				■		■						■
ERITREA					■		■	■					
ESTONIA	■	■		■	■	■	■	■	■	■		■	■
ETHIOPIA					■	■	■	■					
FIJI	■	■			■	■	■	■					■
FINLAND	■	■		■	■	■	■	■		■	■	■	■
FRANCE	■	■		■	■	■	■	■	■	■	■		■
GABON	■			■	■	■	■	■					■
GAMBIA	■			■	■	■	■	■					■
GEORGIA	■		■		■	■	■	■			■		■
GERMANY	■	■		■	■	■	■	■		■			■
GHANA	■	■	■	■	■	■	■	■					■
GREECE	■	■		■	■	■	■	■		■			■
GRENADA	■			■	■	■	■	■					
GUATEMALA	■				■	■	■	■					■
GUINEA	■	■		■	■	■	■	■					■
GUINEA-BISSAU	■				■	■	■	■					■
GUYANA	■			■	■	■	■	■					■
HAITI	■				■	■		■					
HONDURAS	■				■	■	■	■					■
HUNGARY	■	■		■	■	■	■	■		■			■
ICELAND	■	■		■	■	■	■	■		■	■		■
INDIA	■	■			■	■	■	■			■		■
INDONESIA	■	■		■	■	■	■	■			■		■
IRAN		■			■	■	■	■			■		■
IRAQ	■				■	■	■	■					
IRELAND	■	■		■	■	■	■	■		■	■		■
ISRAEL					■	■	■	■		■			■
ITALY	■	■		■	■	■	■	■		■	■		■
JAMAICA	■				■	■	■	■					■
JAPAN	■	■	■	■	■	■	■	■		■			■
JORDAN	■				■	■	■	■			■		■

	UNCLOS	UNFSA	FAO Compliance Agreement	PSMA	UNTOC	UNCAC	CITES	UN Drug Convention	ILO Convention C188	OECD Anti-bribery Convention	International Convention on MA	Ship Arrest Convention	MARPOL 73/78
KAZAKHSTAN					■	■	■	■					■
KENYA	■	■		■	■	■	■	■			■		■
KUWAIT	■				■	■	■	■					■
KYRGYZSTAN					■	■	■	■					
LAOS	■				■	■	■	■					
LATVIA	■	■		■	■	■	■	■		■	■	■	■
LEBANON	■				■	■	■	■					■
LESOTHO	■				■	■	■	■					
LIBERIA	■	■			■	■	■	■				■	■
LIBYA					■	■	■	■					■
LIECHTENSTEIN					■	■	■	■					
LITHUANIA	■	■		■	■	■	■	■	■	■	■		■
LUXEMBOURG	■	■		■	■	■	■	■		■			■
MADAGASCAR	■		■	■	■	■	■	■					■
MALAWI	■				■	■	■	■			■		■
MALAYSIA	■				■	■	■	■			■		■
MALDIVES	■	■		■	■	■	■	■					■
MALI	■				■	■	■	■					
MALTA	■	■		■	■	■	■	■					■
MARSHALL ISLANDS	■	■			■	■		■					■
MAURITANIA	■			■	■	■	■	■					■
MAURITIUS	■	■	■	■	■	■	■	■			■		■
MEXICO	■		■		■	■	■	■		■			■
MOLDOVA	■				■	■	■	■			■		■
MONACO	■	■			■		■	■					■
MONGOLIA	■				■	■	■	■					■
MONTENEGRO	■			■	■	■	■	■					■
MOROCCO	■	■	■		■	■	■	■	■		■		■
MOZAMBIQUE	■	■	■	■	■	■	■	■					■
MYANMAR	■		■	■	■	■	■	■					■
NAMIBIA	■	■	■	■	■	■	■	■					■
NAURU	■	■			■	■		■					
NEPAL	■				■	■	■	■					
NETHERLANDS	■	■		■	■	■	■	■		■			■
NEW ZEALAND	■	■	■	■	■	■	■	■		■	■		■
NICARAGUA	■				■	■	■	■					■
NIGER	■				■	■	■	■			■		
NIGERIA	■	■			■	■	■	■			■		■
NORWAY	■	■	■	■	■	■	■	■	■	■	■	■	■
OMAN	■	■	■	■	■	■	■	■					■
PAKISTAN	■				■	■	■	■			■	■	■
PALESTINE	■				■	■							
PANAMA	■	■		■	■	■	■	■					■
PAPUA NEW GUINEA	■	■				■	■						■
PARAGUAY	■				■	■	■	■					
PERU			■	■	■	■	■	■					■
PHILIPPINES	■	■			■	■	■	■					■

	UNCLOS	UNFSA	FAO Compliance Agreement	PSMA	UNTOC	UNCAC	CITES	UN Drug Convention	ILO Convention C188	OECD Anti-bribery Convention	International Convention on MA	Ship Arrest Convention	MARPOL 73/78
POLAND													
PORTUGAL													
QATAR													
REPUBLIC OF KOREA													
ROMANIA													
RUSSIA													
RWANDA													
SAMOA													
SAN MARINO													
SAO TOME AND PRINCIPE													
SAUDI ARABIA													
SENEGAL													
SERBIA													
SEYCHELLES													
SIERRA LEONE													
SINGAPORE													
SINT MAARTEN													
SLOVAKIA													
SLOVENIA													
SOLOMON ISLANDS													
SOMALIA													
SOUTH AFRICA													
SOUTH SUDAN													
SPAIN													
SRI LANKA													
ST KITTS AND NEVIS													
ST LUCIA													
ST VINCENT AND THE GRENADINES													
SUDAN													
SURINAM													
SWAZILAND													
SWEDEN													
SWITZERLAND													
SYRIA													
TAJIKISTAN													
TANZANIA													
THAILAND													
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA													
TIMOR LESTE													
TOGO													
TONGA													
TRINIDAD AND TOBAGO													
TUNISIA													

	UNCLOS	UNFSA	FAO Compliance Agreement	PSMA	UNTOC	UNCAC	CITES	UN Drug Convention	ILO Convention C188	OECD Anti-bribery Convention	International Convention on MA	Ship Arrest Convention	MARPOL 73/78
TURKEY													
TURKMENISTAN													
UGANDA													
UKRAINE													
UNITED KINGDOM													
UNITED STATES													
UNITED ARAB EMIRATES													
URUGUAY													
UZBEKISTAN													
VATICAN CITY STATE													
VENEZUELA													
VIETNAM													
YEMEN													
ZAMBIA													
ZIMBABWE													

APPENDIX II: LIST OF RATIFICATIONS OF REGIONAL FISHERIES COOPERATION INSTRUMENTS*

**As of December 2017*

	CACFish	CCAMLR	CCBSP	CCSBT	GFCM	IATTC	ICCAT	IOTC	IPHC	IWC	LVFO	NAFO	NASCO	NEAFC	NPAFC	NPFC	PSC	RECOFI	SEAFO	SIOFA	SPRFMO	WCPFC
AFGHANISTAN																						
ALBANIA					■		■															
ALGERIA					■		■															
ANDORRA																						
ANGOLA							■												■			
ANTIGUA AND BARBUDA										■												
ARGENTINA		■								■												
ARMENIA	■																					
ARUBA																						
AUSTRALIA		■		■				■		■										■	■	■
AUSTRIA										■												
AZERBAIJAN	■																					
BAHAMAS																						
BAHRAIN																		■				
BANGLADESH								■														
BARBADOS							■															
BELARUS																						
BELGIUM		■								■												
BELIZE						■	■			■												■
BENIN										■												
BHUTAN																						
BOLIVIA						■	■															
BOSNIA AND HERZEGOVINA																						
BOTSWANA																						
BRAZIL		■					■			■												
BRUNEI																						
BULGARIA					■					■												
BURKINA FASO																						
BURUNDI																						
CAMBODIA										■												
CAMEROON										■												
CANADA						■	■		■	■		■	■	■	■	■	■					■
CAPE VERDE							■															
CENTRAL AFRICAN REPUBLIC																						
CHAD																						
CHILE		■								■											■	
CHINA		■	■			■	■	■		■						■					■	■
COLOMBIA						■				■											■	
COMOROS								■												■		
CONGO										■												
COSTA RICA						■	■			■												
CÔTE D'IVOIRE							■			■												
CROATIA					■					■												
CUBA												■									■	
CURAÇAO							■															
CYPRUS					■					■												
CZECH REPUBLIC										■												
DEMOCRATIC REPUBLIC OF THE CONGO																						
DENMARK										■		■	■	■							■	
DJIBOUTI								■														
DOMINICA										■												
DOMINICAN REPUBLIC										■												
ECUADOR						■				■											■	■
EGYPT					■		■			■												

	CACFish	CCAMLR	CCBSP	CCSBT	GFCM	IATTC	ICCAT	IOTC	IPHC	IWC	LVFO	NAFO	NASCO	NEAFC	NPAFC	NPFC	PSC	RECOFI	SEAFO	SIOFA	SPRFMO	WCPFC
El SALVADOR																						
EQUATORIAL GUINEA																						
ERITREA																						
ESTONIA																						
ETHIOPIA																						
FIJI																						
FINLAND																						
FRANCE																						
GABON																						
GAMBIA																						
GEORGIA																						
GERMANY																						
GHANA																						
GREECE																						
GRENADA																						
GUATEMALA																						
GUINEA																						
GUINEA-BISSAU																						
GUYANA																						
HAITI																						
HONDURAS																						
HUNGARY																						
ICELAND																						
INDIA																						
INDONESIA																						
IRAN																						
IRAQ																						
IRELAND																						
ISRAEL																						
ITALY																						
JAMAICA																						
JAPAN																						
JORDAN																						
KAZAKHSTAN																						
KENYA																						
KUWAIT																						
KYRGYZSTAN																						
LAOS																						
LATVIA																						
LEBANON																						
LESOTHO																						
LIBERIA																						
LIBYA																						
LIECHTENSTEIN																						
LITHUANIA																						
LUXEMBOURG																						
MADAGASCAR																						
MALAWI																						
MALAYSIA																						
MALDIVES																						
MALI																						
MALTA																						
MARSHALL ISLANDS																						
MAURITANIA																						
MAURITIUS																						
MEXICO																						
MOLDOVA																						
MONACO																						
MONGOLIA																						
MONTENEGRO																						
MOROCCO																						
MOZAMBIQUE																						
MYANMAR																						
NAMIBIA																						

	CACFish	CCAMLR	CCBSP	CCSBT	GFCM	IATTC	ICCAT	IOTC	IPHC	IWC	LVFO	NAFO	NASCO	NEAFC	NPAFC	NPFC	PSC	RECOFI	SEAFO	SIOFA	SPRFMO	WCPFC
NAURU																						
NEPAL																						
NETHERLANDS																						
NEW ZEALAND																						
NICARAGUA																						
NIGER																						
NIGERIA																						
NORWAY																						
OMAN																						
PAKISTAN																						
PALESTINE																						
PANAMA																						
PAPUA NEW GUINEA																						
PARAGUAY																						
PERU																						
PHILIPPINES																						
POLAND																						
PORTUGAL																						
QATAR																						
REPUBLIC OF KOREA																						
ROMANIA																						
RUSSIA																						
RWANDA																						
SAMOA																						
SAN MARINO																						
SAO TOME AND PRINCIPE																						
SAUDI ARABIA																						
SENEGAL																						
SERBIA																						
SEYCHELLES																						
SIERRA LEONE																						
SINGAPORE																						
SINT MAARTEN																						
SLOVAKIA																						
SLOVENIA																						
SOLOMON ISLANDS																						
SOMALIA																						
SOUTH AFRICA																						
SOUTH SUDAN																						
SPAIN																						
SRI LANKA																						
ST KITTS AND NEVIS																						
ST LUCIA																						
ST VINCENT AND THE GRENADINES																						
SUDAN																						
SURINAM																						
SWAZILAND																						
SWEDEN																						
SWITZERLAND																						
SYRIA																						
TAJIKISTAN																						
TANZANIA																						
THAILAND																						
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA																						
TIMOR LESTE																						
TOGO																						
TONGA																						

	CACFish	CCAMLR	CCBSP	CCSBT	GFCM	IATTC	ICCAT	IOTC	IPHC	IWC	LVFO	NAFO	NASCO	NEAFC	NPAFC	NPFC	PSC	RECOFI	SEAFO	SIOFA	SPRFMO	WCPFC
TRINIDAD AND TOBAGO																						
TUNISIA																						
TURKEY																						
TURKMENISTAN																						
UGANDA																						
UKRAINE																						
UNITED KINGDOM																						
UNITED STATES																						
UNITED ARAB EMIRATES																						
URUGUAY																						
UZBEKISTAN																						
VATICAN CITY STATE																						
VENEZUELA																						
VIETNAM																						
YEMEN																						
ZAMBIA																						
ZIMBABWE																						

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