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ENDING ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Essential criteria for improving transparency and achieving good governance in fisheries

BACKGROUND

In combatting illegal, unreported and unregulated (IUU) fishing, what does good governance in fisheries look like? The Environmental Justice Foundation (EJF), Oceana, The Nature Conservancy, The Pew Charitable Trusts and WWF (the EU IUU Coalition) are working together with the aim of improving global fisheries transparency and governance to end IUU fishing. With this purpose, we sought to answer this question, developing a detailed set of criteria directed at national governments to assist them in improving transparency and achieving good governance in fisheries.

The criteria have been assembled based on international flag, coastal, port and market State obligations, as well as best practices that countries have incorporated into their national legal systems and institutional frameworks. The EU IUU Coalition has also drawn from the decade-long experience of the implementation of the European Union's Regulation to prevent, deter and eliminate IUU fishing (the EU IUU Regulation), and its carding scheme to identify or pre-identify non-EU countries as non-cooperating in the fight against IUU fishing.¹ Proposed actions included in these criteria are in line with those meant to address the most commonly cited shortcomings in the fisheries governance systems of non-EU countries identified through this scheme.² Recognising also

the vitally important role that transparency within the global fishing sector can have in tackling IUU fishing, the criteria have been complemented and further strengthened with specific recommendations aimed at increasing transparency. These recommendations have been adapted from countries' best practices, the Fisheries Transparency Initiative (FiTI) Standard, relevant Food and Agriculture Organization of the United Nations (FAO) instruments including the Code of Conduct for Responsible Fisheries, and other stakeholder campaigns such as EJF's Transparency Charter among others. This analysis has led to the selection of 30 transparency and good governance criteria divided into four categories: flag and coastal State responsibilities; port, processing and market State responsibilities; legal framework; and collaborative action.

The EU IUU Coalition encourages all governments worldwide with any involvement in the global fishing sector to review the following criteria and consider adopting those not already implemented. The suggested actions should be treated as general guidance only and should not be construed as official or legal advice.



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FLAG AND COASTAL STATE RESPONSIBILITIES:

- Establish minimum conditions³ that need to be met prior to entering a flag State's fishing vessel⁴ registry, including compliance history and a genuine link (i.e. effective vessel control by the flag State).
- Require that all eligible vessels registered under the country's flag and/or operating in the country's exclusive economic zone (EEZ) have an International Maritime Organization (IMO) number.
- Establish and implement a system for the authorisation of fishing and related activities by vessels registered under the country's flag and by other vessels operating within the country's EEZ. Consider denying fishing licences to vessels registered under the flags of countries that have been issued a red card by the EU under the carding scheme of the EU IUU Regulation.
- Maintain a public and current list of all foreign and domestic vessels licensed and/or authorised to fish within the country's EEZ and all domestic vessels licensed and/or authorised to fish in external waters, as well as all fishing vessels registered under the country's flag. Keep this list up to date and include details on all active fishing authorisations, licences and access agreements, including private agreements. For large-scale fishing vessels, include information on beneficial ownership, their payments and recorded catches. Regularly submit all information to the FAO for inclusion in the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels.
- Ensure that the number of fishing authorisations given and access agreements in place are appropriate considering the scientifically assessed status of fished stocks. Make reports on the status of national fish stocks publicly available.
- Require 100% observer coverage (by fully trained and certified human observers, electronic means, or a combination of both) onboard both the fishing vessel and the carrier vessel for all transshipping events, registered under the country's flag or operating within the country's EEZ. Otherwise, consider banning fishing vessels and carriers registered under the country's flag or operating within the country's EEZ from carrying out transshipments at sea.
- Ensure adequate inspection and enforcement capacity for the control of fishing operations and transshipments by vessels registered under the country's flag and operating within the country's EEZ. Establish a national plan of at-sea inspections using a risk-based management approach and a national observer programme or ensure that regional observer programme requirements are fully implemented.
- Establish a fisheries monitoring center (FMC) for the continuous monitoring of vessel tracking data and other fisheries-related data.
- Require all vessels registered under the country's flag, as well as all foreign-flagged and domestic fishing vessels authorised and licensed to fish within the coastal State's EEZ to be equipped with a vessel monitoring system (VMS) as well as automatic identification system or other appropriate supplemental tracking technology, especially for small-scale vessels. Require close to real-time transmission of data from these systems to the FMC and share VMS data appropriately, for both enforcement and scientific purposes with competent authorities, national, regional or otherwise.
- Require electronic logbooks to be maintained on board vessels with the regular reporting of fisheries-related data to the FMC.
- Make reports including aggregate information on infringements and sanctions applied publicly available.

PORT, PROCESSING AND MARKET STATE RESPONSIBILITIES:

- Apply risk-based criteria for selecting vessels to inspect at port or for carrying out additional inspections, prioritising: vessels registered under the flags of countries that (a) operate open registries, (b) have been given a yellow card by the EU under the carding scheme of the EU IUU Regulation (vessels of red-carded flag States should automatically be considered of high risk), and (c) have been identified by the United States (US) government for reported IUU fishing activities; vessels carrying species particularly vulnerable to IUU fishing such as those targeted by the US Seafood Import Monitoring Program; and vessels that have been operating in high-risk areas.
- Consider denying port access to vessels considered of high risk for IUU fishing, such as those included on any regional fisheries management organisation (RFMO) IUU vessel list. Vessels allowed port access in cases of force majeure should be inspected.
- Ensure adequate inspection and enforcement capacity for the control of landings and transshipments by vessels accessing the country's ports.
- Share publicly information relating to the implementation of port state measures, including designated ports, contact points, inspection records and detected infringements, flag State performance statistics, port access refusals, and suspected IUU fishing vessels.
- Implement robust electronic traceability from the point of catch, with the establishment of databases for storing and exchanging digital records such as landing declarations, e-logbook data, catch certificates and information from designated ports.
- Require detailed labelling on seafood products including the catch area, the fishing gear used and the species caught, allowing consumers to better identify what they purchase and consume.
- Establish a national plan of inspections for seafood in transit, at processing facilities and at retail establishments, using a risk-based management approach. Inspections should be unannounced, verify traceability information, and integrate DNA testing of products.



LEGAL FRAMEWORK:

- Ratify or accede to, as appropriate, the main international instruments on sustainable fishing and fisher safety. These include the United Nations Convention on the Law of the Sea; the United Nations Fish Stocks Agreement; the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing; the IMO Cape Town Agreement on safety of fishing vessels; and the ILO Work in Fishing Convention. Ensure these are fully implemented and that the national legal framework is consistent.
- Adopt or update national legislation in line with the main international voluntary agreements, guidance or initiatives on sustainable fishing and transparency in fisheries. These include the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing; the FAO Voluntary Guidelines for Flag State Performance; the FAO Voluntary Guidelines for Catch Documentation Schemes; the FAO Code of Conduct for Responsible Fisheries; the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries; and the 12 FiTI requirements.
- Adhere to and transpose applicable conservation and management measures (CMMs) established by relevant RFMOs that the country is a contracting party to, into national legislation.
- Ensure that the national legal framework establishes a transparent system of deterrent sanctions for IUU fishing offences, including for nationals (physical or legal) engaging in or supporting IUU fishing, e.g. through the provision of services.
- Adopt strong laws accompanied by penalties to deter bribery and informal payments made to influence licensing, sanctions and other fisheries management decisions.
- Make national fisheries laws, regulations and official policy documents publicly available, as well as implementation reports.

COLLABORATIVE ACTION:

- Join and constructively engage with relevant RFMOs with competence for fishing activities or fish stocks that are of interest to the country as a flag, coastal or market State. Ensure compliance with the CMMs of these RFMOs, transmitting the required information on a regular basis and taking prompt action to investigate suspected infringements and impose sanctions when necessary. Promote and/or support measures in line with the above mentioned international treaties or of higher ambition.
- Enable inter-agency cooperation at national level between various authorities (customs, port, police, fisheries, tax, judiciary, etc.) and at regional and international level.
- Exchange VMS data, landing declarations and information on transshipment events systematically with coastal States within whose EEZs vessels flying the country's flag are fishing. Exchange information with all other flag, coastal, port, processing and market States for traceability purposes and for ensuring the legality of products entering the market.
- Communicate information on infringements and/or denials of port access to neighbouring coastal States and to other states concerned.
- Engage with civil society and other industry actors at national, regional and/or international level to encourage stakeholder consultation and participatory decision making where appropriate.
- Join regional and/or global networks and initiatives, as appropriate, established to facilitate the sharing of information and other collaborative efforts to detect, prevent, deter and eliminate IUU fishing, including but not limited to observer, boarding and/or inspection programmes.

¹ As of 1 October 2019, the EU has issued over 20 decisions in regards to non-EU countries. The latest overview of these decisions is available at https://ec.europa.eu/fisheries/sites/fisheries/files/illegal-fishing-overview-of-existing-procedures-third-countries_en.pdf

² For more information, please consult the following EU IUU Coalition Issue Brief from April 2016: '[Improving performance in the fight against IUU fishing](#)'.

³ As an example, the EU has established a set of conditions under the Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register.

⁴ For the purposes of this document, 'fishing vessels' refers to fishing vessels, refrigerated transport vessels and supply vessels.

The Environmental Justice Foundation (EJF), Oceana, The Nature Conservancy (TNC), The Pew Charitable Trusts and WWF are working together to promote EU leadership in improving global fisheries transparency and governance to end illegal, unreported and unregulated (IUU) fishing.

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