

# UNODC APPROACH TO CRIMES IN THE FISHERIES SECTOR



**UNODC**

United Nations Office on Drugs and Crime





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## INTRODUCTION

The objective of this paper is to (i) summarize the approach of the United Nations Office on Drugs and Crime (UNODC) to crimes in the fisheries sector and its links and differences to illegal, unreported and unregulated (IUU fishing), as well as to (ii) provide an overview of UNODC's menu of services in this area.

In 2011, UNODC published a paper on Transnational Organized Crime in the Fishing Industry, which found that the fisheries sector is vulnerable to multiple crimes, including corruption, document fraud, illegal fishing and human trafficking. Criminality and unlawful activities linked to the fisheries sector not only threaten the health of our oceans but also, increasingly, have a negative impact on the economies of coastal countries, fuel corruption and create conditions in which further crime - including serious and organized crime - can be perpetrated. To succeed in the fight against these crimes, and in addressing IUU fishing, the traditional fisheries management approach needs to be complemented by a criminal justice approach.

UNODC, as the guardian of the United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocols, as well as the United Nations Convention against Corruption (UNCAC), supports Member States' efforts to address crimes in the fisheries sector<sup>1</sup>.

In UNODC's approach, crimes in the fisheries sector cover a broad range of illegal activities that may occur at one or more stages of the fisheries value chain<sup>2</sup>. These offences:

- Are different to IUU fishing, although are often related and occur at the same time
- May or may not be directly linked to the fishing operations
- Frequently meet the criteria for UNCAC and UNTOC to apply

UNODC derives its mandate to work on crimes in the fisheries sector from a series of General Assembly Resolutions dating back to 2009 concerning the nexus between international organized crime and illegal fishing<sup>3</sup>, as well as various resolutions of the Commission of Crime Prevention and Criminal Justice (CCPCJ).<sup>4</sup>

<sup>1</sup> The definition of fisheries sector used in this position paper is provided by the North Atlantic Fisheries Intelligence Group (NAFIG), which is "commercial marine and freshwater fishing and/ or harvesting and aquaculture (the farming or culturing of fish, molluscs, crustaceans and seaweed), and connected businesses". Retrieved from North Atlantic Fisheries Intelligence Group (NAFIG), Protocol for the North Atlantic Fisheries Group. Available at: <http://nafig.org/protocol/>.

<sup>2</sup> The value chain for fisheries is different from one product to another, and depends on whether it is considering capture fishing or aquaculture, small-scale or large-scale operations, as well as other factors. For the purpose of this analysis, a simplified value chain is used, consisting of six steps: preparation, fishing, processing, landing transport, sales and consumption. From UNODC Rotten Fish: A Guide on Addressing Corruption in the Fisheries Sector (2019).

<sup>3</sup> UNGA Resolution 65/37, and UNGA Resolution on 64/72: "[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," para. 61.

<sup>4</sup> E.g. 28/3(2019)

# I. ILLEGALITY IN THE FISHERIES SECTOR

## CRIMES IN THE FISHERIES SECTOR

UNODC divides crimes in the fisheries sector into two categories. First, *crimes associated with the fisheries sector* that have no direct connection with fishing operations but take place on fishing vessels, in fishing facilities or use fishing operations to commit or cover crimes. An example of crime associated with the fisheries sector would be the trafficking of firearms.

Second, *crimes in the fisheries value chain* that are closely linked to fishing operations, although they are not “illegal fishing” per se. These crimes extend into the trade, ownership structures and financial services associated with the fishing sector—they are not only associated with the act of fishing. Such crimes include fraud and forgery, corruption, money-laundering, tax crimes, customs and fiscal fraud as well as trafficking in persons.

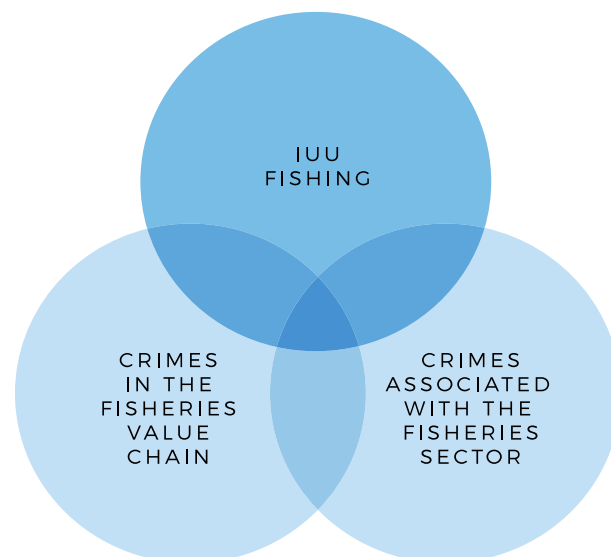


FIGURE 1: ILLEGALITY IN THE FISHERIES SECTOR

In addressing crimes in the fisheries value chain, UNODC bases its technical assistance on a “value chain” approach, which identifies the value chain stages (see simplified fisheries value chain in figure 2 below), agencies involved, and possible entry points for different types of crimes. The purpose of adopting a value chain approach is a two-fold: firstly, it allows for the identification of the numerous points along the chain at which different types of criminal offences typically occur. Secondly, it allows for the highlighting of potential entry points for law enforcement interventions in identifying, investigating and prosecuting crime throughout the sector.

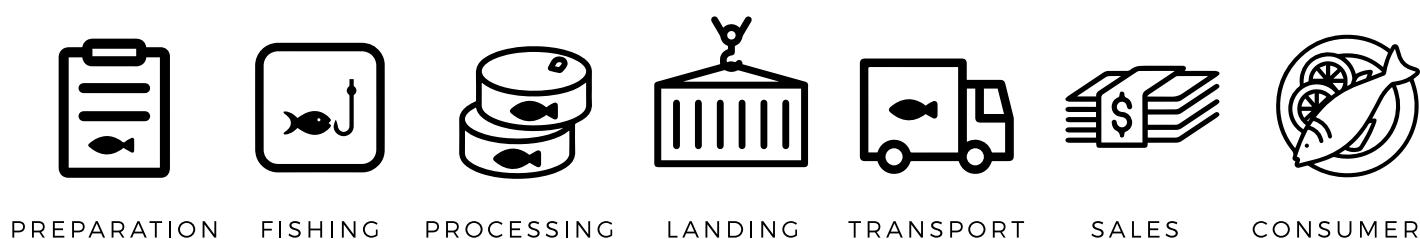


FIGURE 2: SIMPLIFIED FISHERIES VALUE CHAIN

## ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING

Fishing may be regulated through a combination of arrangements, such as domestic laws, measures recommended by regional fisheries management organizations (RFMOs) and principles established by international conventions (e.g. UN Convention on the Law of the Sea). The aim of this regulatory environment is to promote sustainable fishing while ensuring integrity and legality in a sector that is crucial in terms of trade, employment and food security.

Violations of the above-mentioned arrangements are traditionally categorized in three groups which are together known as IUU fishing. IUU fishing includes, but is not limited to, the following activities<sup>5</sup>:

- **ILLEGAL FISHING**: activities such as fishing with unlawful gear, in unlawful areas, without lawful authorizations etc., in contravention of domestic and regional laws/regulations
- **UNREPORTED FISHING**: often associated with misreporting and underreporting of catches for tax-avoidance or for circumventing catch quotas and limitations
- **UNREGULATED FISHING**: often associated with vessels without nationality or not party to RFMOs, which disregard existing measures to conserve and manage fisheries in a certain area

<sup>5</sup> The definitions used are summarized from the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). Full definitions can be retrieved from: <http://www.fao.org/iuu-fishing/background/what-is-iuu-fishing/en/>.

### FAO'S MANDATE AS THE LEAD AGENCY TO ADDRESS IUU FISHING

The FAO is the lead agency in the UN system with the mandate to prevent and combat IUU fishing. It does so largely through engagement with key actors within the fishery sector, including the private sector. The FAO has considerable knowledge and experience related to fisheries matters, especially in relation to fisheries management, conservation and trade. On legal matters, the main focus of FAO is on prevention and the use of administrative justice.

IUU fishing is often related to local fisherman operating through artisanal vessels in small-scale operations. These violations are generally handled through administrative sanctions.



## INTERLINKAGES BETWEEN THE CATEGORIES OF ILLEGALITY

Most forms of IUU fishing violations are resolved through the administrative justice system. However, in a number of cases, the circumstances surrounding IUU fishing (volume of the catch, the frequency of the offences, the cross-jurisdictional nature of the violation, the type of catch (endangered/protected species, CITES-listed species, etc.) or the use of particularly disruptive fishing methods (explosives, electrocution, etc.), may be regarded by States as serious enough to call for more severe sanctions. In such cases, domestic legal frameworks may provide for higher administrative sanctions, or even criminal penalties through the criminal justice system, which may go beyond the threshold of four years of imprisonment prescribed in the definition of “serious crime” provided by Art.2(b) of the UNTOC<sup>6</sup>. This is where UNODC can complement the work of the FAO and others through its mandate related to criminal justice.

It is important to note that, however egregious the aggravating circumstances in IUU fishing may be, offences occurring specifically in an Exclusive Economic Zone (EEZ) as opposed to territorial waters are highly unlikely to be dealt with as “serious crime” (as defined by UNTOC). This is due to UNCLOS Art. 73.3, which emphasizes that “coastal state penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment”. In territorial waters, however, disputes related to IUU fishing practices are regulated by the domestic legal framework of the coastal state, which may include the use of both administrative and criminal justice measures.

At the same time, there are interlinkages between crimes discussed in this paper and other serious crime as defined by the UNTOC and its Protocols. For example, the crime of trafficking in persons, most commonly for the purpose of forced labour (onboard fishing vessels, rafts or fishing platforms, in port, or in fish processing plants), has been documented as a prevalent form of exploitation in the fishing industry<sup>7</sup>.



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<sup>6</sup> Note that baselines on maximum penalties for fishery offences at the regional and international levels do not currently exist.

<sup>7</sup> [https://www.unodc.org/documents/human-trafficking/Issue\\_Paper\\_-\\_TOC\\_in\\_the\\_Fishing\\_Industry.pdf](https://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf)

## II. UNODC'S MENU OF SERVICES

### CRIMES IN THE FISHERIES SECTOR

UNODC engages in several cross-cutting activities related to crimes in the fisheries sector, including:

- Multi-agency trainings and workshops to ensure a comprehensive approach on crimes in the fisheries sector
- Facilitation of regional and inter-agency coordination including between law enforcement, prosecutorial and central authorities as well as international and regional law enforcement organizations
- Capacity building for Member States and their specialized agencies in the areas of criminal intelligence, special investigative techniques, backtracking investigations etc., which are applicable to counter crimes in the fisheries sector
- Convening of international high-level events and conferences on preventing and combating crimes in the fisheries sector
- Raising awareness on crimes in the fisheries sector, including through development of educational and resource materials on crimes in the fisheries sector.

In addition, several UNODC programmes<sup>8</sup> provide specialized technical assistance on addressing crimes in the fisheries sector:

#### GLOBAL PROGRAMME ON COMBATING WILDLIFE AND FOREST CRIME (GPWLFC)

Aligned with the "value chain approach", the foundation of the technical assistance provided by the GPWLFC is the "value chain analysis", which analyses the value chain stages and agencies with the aim to identify vulnerabilities for different types of crimes and design measures to address these vulnerabilities. The value chain analysis is the starting point for more targeted technical assistance, including assistance delivered in collaboration with other UNODC programmes.

Since the start of work in the area of fisheries crime in 2016, the GPWLFC has achieved progress in increasing the awareness of Member States on crimes in the fisheries sector and has supported Member States to build their capacity to address these crimes. This has been achieved through the development of a strong partnership with the FAO, which is the lead UN agency with a mandate on fighting IUU fishing, as well as through partnerships with Member States that are at the forefront of this issue globally, such as Norway and Indonesia.

In addition to the value chain analysis, the work of the GPWLFC in the area of crimes in the fisheries sector includes the following types of assistance:

- Training for investigators and prosecutors on crimes in the fisheries sector
- Implementation of the ICCWC Wildlife and Forest Crime Toolkit Assessment with a component on crimes in the fisheries sector;
- Regional inter-agency workshops on enhancing cooperation between the relevant agencies at the regional level

- Convening of awareness-raising events with the aim of increasing understanding on the importance of preventing and addressing crimes in the fisheries sector
- Development of educational and resource materials on crimes in the fisheries sector and links to other forms of transnational organized crime
- Delivery of modules on fisheries crime at FAO workshops.

In partnership with the Global Anti-Corruption Programme, the GPWLFC provides the following types of assistance:

- Facilitation of corruption risk assessments and support for the development of mitigation measures for Member States. These assessments are based on *Rotten Fish: A Guide on Addressing Corruption in the Fisheries Sector*<sup>9</sup>. This Guide, developed jointly by the two Programmes, seeks to help policy makers identify the specific points in their legal and regulatory frameworks that are vulnerable to corruption risks, and to act to address those weaknesses
- Support for Member States to identify opportunities to conduct parallel financial investigations into corruption and economic crimes in the fisheries sector. Enhanced capacity to investigate and prosecute corruption and other economic crimes to help target more senior members of criminal groups and the actual beneficiaries of crimes in the fisheries sector, and to disrupt organized criminal groups
- Development of educational and resource materials on corruption in the fisheries sector and links to other forms of transnational organized crime.

In partnership with the Global Programme on Implementing the Organized Crime Convention: from Theory to Practice, the GPWLFC provides the following types of assistance:

- Legislative reviews and development of tools, such as legislative guides, in relation to crimes in the fisheries sector. The planned legislative guide on crimes in the fisheries sector is intended to support States in enacting or strengthening domestic legislation to prevent and combat these illicit activities, which can represent a lucrative source of profit for organized criminal groups. States are encouraged to use this guide as a practical tool as they draft, amend or review relevant national legislation within their constitutional and legislative framework. The roll-out of the Guide, associated trainings and events will be done jointly by both Global Programmes. This guide will also be developed in close consultation with the FAO
- Support for knowledge management on crimes in the fisheries sector, through the population of the SHERLOC knowledge management portal with relevant legislation, case law, bibliography, strategies etc.

<sup>8</sup> The list above provides a summary of UNODC Programmes currently working on crimes in the fisheries sector. Subject to interest and funding, this list may be further expanded in the future to address specialized areas of intervention.

<sup>9</sup> [https://www.unodc.org/documents/Rotten\\_Fish.pdf](https://www.unodc.org/documents/Rotten_Fish.pdf)



## UNODC – WCO CONTAINER CONTROL PROGRAMME (CCP)

CCP works with UN Member States to address crimes in the fisheries sector related to the containerized trade supply chain. According to the aforementioned typology, crimes in the containerized trade supply chain include both crimes associated with the fisheries sector (e.g. drug trafficking) and crimes in the fisheries value chain (e.g. document forgery).

The Programme provides training on the methods and impact of crimes in the fisheries sector. This training encompasses the identification of species and gear, links to other forms of transnational organized crimes, risk indicators, communication tools, as well as human rights challenges and issues related to gender. CCP also emphasizes inter-agency cooperation by bringing together Port Control Units (PCUs), fisheries departments and other relevant actors such as the private sector to promote a holistic approach to the challenges posed by crimes in the fisheries sector.

Since CCP began implementing its crimes in the fisheries sector component in 2016, noticeable progress has been made in the profiling capabilities of its PCUs, resulting in an enhanced awareness of illegal shipments of marine resources and gear, as well as inter-agency cooperation.

The CCP component on crimes in the fisheries sector involves a variety of activities, such as:

- Technical assessments focusing on, but not limited to, the work of customs and law enforcement agencies working at and with seaports, airports and dry ports
- National, regional and international technical training activities, such as workshops, meetings and mentorships, focusing on crimes in the fisheries sector and the containerized trade supply chain
- Private sector stakeholder meetings to encourage cooperation with customs and law enforcement
- Study visits to local fishing ports to familiarize PCU officers and their counterparts with fisheries inspection methods and other control mechanisms
- Gender sensitive and gender focused training to support empowerment of women working in customs, law enforcement and fisheries related areas, as part of the training activities
- In cooperation with other partners such as GMCP, facilitation of inter-agency workshops for the above-mentioned agencies, navies, coastguards etc. to ensure a comprehensive law-enforcement oriented approach to crimes in the fisheries sector



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## GLOBAL MARITIME CRIME PROGRAMME (GMCP)

GMCP focuses on providing maritime law enforcement personnel, customs officers and prosecutors with the skills they need to handle crimes in the fisheries sector at sea, in ports and in court. Like police officers, coastguard officers do not know what crimes they will come across when they go on patrol. GMCP ensures that those who work for the maritime law enforcement agencies that are being supported understand what crime in the fisheries sector is, and have both the means to collect evidence of it and the skills to present that evidence in court.

The GMCP is covering the following areas of work with a focus on capacity building in maritime law enforcement:

- Facilitate maritime domain awareness (MDA) exercises through the coordination of a joint platform in cooperation with technology providers
- Provide Visit-Board-Search-Seizure (VBSS) training on board fishing vessels and for maritime law enforcement personnel including fisheries authorities, in close cooperation with the FAO and regional fisheries organizations
- Support maritime law enforcement services to analyse trends and patterns of vessel movements to improve patrolling strategies
- Support port and maritime law enforcement agencies to ensure compliance on ballast water management by vessels and similar activity by small craft
- Train maritime law enforcement personnel to collect and present evidence to support prosecutions
- Train prosecutors on crimes in the fisheries sector
- Facilitate inter-agency coordination
- In cooperation with other partners such as CCP, facilitate inter-agency workshops for relevant maritime law enforcement agencies, including customs, port authorities, fisheries authorities, navies, coastguards etc. to ensure a comprehensive approach to crimes in the fisheries sector.

## GLOBAL PROGRAMME AGAINST TRAFFICKING IN PERSONS (GLOPAT)

Human trafficking in the fishing industry is a crime that involves serious abuse and exploitation of people on board fishing vessels, as well as others within the fishing industry, and poses a serious maritime security threat whilst facilitating further crimes in the fisheries sector. In 2011, UNODC published a paper on Transnational Organized Crime in the Fishing Industry focused on Trafficking in Persons, Smuggling of Migrants, as well as Illicit Drugs Trafficking. In the same publication, the extent to which elements of the fishing industry could be involved in organized migrant smuggling operations was explored. UNODC works with Member States to implement the Trafficking in Persons and the Smuggling of Migrants Protocol to the UNTOC through partnering with Member States on the following types of work:

- Knowledge base expansion through research, data collection and information sharing, including a bi-annual Global Report on Trafficking in Persons and the Human Trafficking and Migrant Smuggling Knowledge Portal. GLOPAT also conducts assessments of the national criminal justice responses to trafficking in persons and the smuggling of migrants
- Strategy development and policy: advice on the development of comprehensive and multi-sectoral strategies on the fight against trafficking in persons and the protection of victims of trafficking
- Training of frontline officers employed by fisheries management and control authorities, such as training fisheries inspectors to identify, respond to and refer cases of human trafficking for investigation whilst ensuring the protection of victims
- Prevention and awareness-raising: communication strategies and awareness-raising campaigns on trafficking in persons and the smuggling of migrants, such as the UNODC Blue Heart Campaign and the annual World Day against Trafficking in Persons
- Ratification and legislative assistance: to facilitate States' ratification or accession to the Protocols and reviewing, amending or assisting in the drafting of relevant laws, including legislation governing the fisheries sector, to respond to trafficking in persons in accordance with international standards
- Capacity development through training on all phases of the criminal justice response to trafficking in persons, including at sea and specifically in the fishing industry. Training is provided in-person, through tailored E-learning modules and on-the-job mentoring.



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## CONSOLIDATED MATRIX OF UNODC'S MENU OF SERVICES

AREA OF WORK	ACTIVITIES	UNODC PROGRAMMES
LEGISLATIVE REVIEWS	Review of laws and regulations related to crime in the fisheries sector (in collaboration with the FAO)	Global Programme for Combating Wildlife and Forest Crime in partnership with the Global Programme on Implementing the Organized Crime Convention: from Theory to Practice
	Review of laws and regulations, and development of legislative guides related to trafficking in persons and smuggling of migrants in the fisheries sector	Global Programme against Trafficking in Persons
	Development of legislative guides to address crimes in the fisheries sector	Global Programme for Combating Wildlife and Forest Crime in partnership with the Global Programme on Implementing the Organized Crime Convention: from Theory to Practice
	Population of SHERLOC database with cases of crimes in the fisheries sector	Global Programme for Combating Wildlife and Forest Crime in partnership with the Global Programme on Implementing the Organized Crime Convention: from Theory to Practice
	Population of SHERLOC database with cases of trafficking in persons and smuggling of migrants in the fisheries sector	Global Programme against Trafficking in Persons in partnership with Global Programme on Implementing the Organized Crime Convention: from Theory to Practice
	Implementation of the ICCWC Wildlife and Forest Crime Toolkit Assessment with a component on crime in the fisheries sector	Global Programme for Combating Wildlife and Forest Crime
CAPACITY BUILDING	Value Chain Analysis of the fisheries sector (multi-agency workshops)	Global Programme for Combating Wildlife and Forest Crime
	Trainings for prosecutors concerning crimes in the fisheries sector	Global Programme for Combating Wildlife and Forest Crime Global Maritime Crime Programme
	Training and capacity building of criminal justice actors on the investigation, prosecution and adjudication of trafficking in persons and smuggling of migrants cases	Global Programme against Trafficking in Persons
	Corruption Risk Assessment and Development of Mitigation Measures (based on the Rotten Fish Guide)	Global Programme for Combating Wildlife and Forest Crime in partnership with the Global Anti-Corruption Programme
	Support to law enforcement bodies to identify cases where parallel financial investigations should be undertaken	Global Anti-Corruption Programme in partnership with the Global Programme for Combating Wildlife and Forest Crime
	Facilitation of maritime domain awareness training and exercises	Global Maritime Crime Programme



	Provision of capacity building in maritime law enforcement through Visit-Board-Search- Seizure training, including in cooperation with the FAO	Global Maritime Crime Programme
	Trainings for maritime law enforcement officers to collect and present evidence admissible in court	Global Maritime Crime Programme
	Technical assessments on crimes in the fisheries sector and the containerized trade supply chain	UNODC – WCO Container Control Programme
	National and regional technical training activities on crimes in the fisheries sector in the containerized trade supply chain	UNODC – WCO Container Control Programme
	Facilitation of operational cooperation and communication between law enforcement agencies and fisheries authorities at national and international levels	UNODC – WCO Container Control Programme Global Maritime Crime Programme
	Private sector stakeholder meetings to encourage cooperation with customs and law enforcement and fisheries authorities	UNODC – WCO Container Control Programme



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