FISHERIES CRIME

MONEY LAUNDERING
ORGANIZED CRIME
ENVIRONMENTAL CRIME
CORRUPTION
FRAUD
TAX AND DOCUMENT FRAUD
FISHERIES CRIME
Fisheries Crime: transnational organized criminal activities in the context of the fisheries sector

What is fisheries crime?: Fisheries crime is an ill-defined legal concept referring to a range of illegal activities in the fisheries sector. These activities – frequently transnational and organized in nature – include illegal fishing, document fraud, drug trafficking, and money laundering. Criminal activities in the fisheries sector are often regarded as synonymous with illegal fishing, which many States do not view or prosecute as criminal offences, but rather as a fisheries management concern, attracting low and usually administrative penalties. Organized criminal organizations thus engage in fisheries crime with relative impunity due both to low risk and high profits and uncoordinated, ineffective domestic and cross-border law enforcement efforts.

Fisheries crime: bringing to light the perfect storm of illegal activities in the fishing sector

Fisheries crime is a multifaceted phenomenon which comprises various crimes, including economic crimes, that are committed at any point along the whole value chain; from the marine habitat through to the final consumer product. The transnational element of fisheries crime is important from a jurisdictional perspective when it comes to law enforcement efforts. The transnational aspect of the fisheries crime can derive from elements such as: the nationality of the fishers (who may be of various nationalities and are often recruited by criminal groups due to their knowledge of the high seas and ability to move undetected across borders); the flag of the vessel; the waters in which the fisheries crime takes place; the nationality of the consumer product; whether the fishers are operating in international or national waters; and the products that are being traded.

Criminals engaging in fisheries crime may be involved in a range of illegal activities including: transhipment of marine resources; illegal fishing; corruption; money laundering; and document, tax and customs fraud, among others.
place (for example, the Exclusive Economic Zones of coastal States or on the high seas); the port where the vessel docks or where the catch is landed, etc. Criminals engaging in fisheries crime may be involved in a range of illegal activities including: transhipment of marine resources; illegal fishing; corruption; money laundering; and document, tax and customs fraud, among others.

While fisheries crime is often transnational and organized in nature, it has tended to receive insufficient attention by the international community precisely because it is not well understood as crime. Thus, a coordinated criminal law enforcement response is lacking. There is need for increased focus on identifying those who both commit predicate offences on the water and those who profit from such transnational organized criminal activities. It is the latter actors that should be targeted for a successful prosecution, with a view to ensuring their activities cease, their assets seized, taxes are paid, and suitable stringent penalties are imposed.

Fisheries crime has significant adverse ecological, social and economic impact. Large scale illegal fishing depletes valuable fish stocks which threatens the long-term marine sustainability and food security of the most vulnerable countries. It further deprives States of economic revenue, while illegal operators benefit from a competitive advantage which creates unfair economic conditions and pushes law abiding businesses out of the market.

Proceeds from this profitable crime enable and sustain further transnational organized crime with damaging effects. Organized criminal networks operating in the fisheries sector engage in illicit activities ranging from criminal fishing to tax crimes, money laundering, corruption, document fraud, and trafficking in persons, drugs and arms.

The United Nations Office on Drugs and Crime (UNODC), among other organizations, have previously reported on the use of fishing vessels for illegal activities. For instance, transhipments – essentially the transfer of the catch from the original vessel to another fishing or cargo vessel – is a common method used by drug traffickers in West Africa. Meanwhile, cases of fishing vessels being used to smuggle migrants and weapons have also been documented.

To place an estimate on the extent of global fisheries crime and the value lost therefrom is a difficult task, and would likely be

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**FISHERIES CRIME: A COMPLEX CRIME DEMANDING COOPERATIVE LAW ENFORCEMENT**

Fisheries offences in domestic jurisdictions have traditionally been regarded as a conservation and/or fisheries management problem, rather than as a criminal concern, attracting relatively lenient administrative sanctions, especially in the form of non-deterrent penalties. Fisheries managers and regulators have thus sought to address the problem by strengthening fisheries management and conservation rules and stepping up compliance via increased monitoring, control and surveillance (known as MCS) of vessel activities and complementary port state measures. Enforcement has thus been almost exclusively confined to the fisheries sector. The reality, however, is that fisheries offences are one of various serious, organized criminal offences, committed transnationally along the entire value chain of a specific group of products in trade: fish and fish products. Fisheries crime is thus a broader criminal matter which requires being investigated by the criminal justice branch of Government, including police and prosecutors in collaboration with a range of other potential departments and agencies (for example, customs, labour and tax) in terms of a variety of laws. This legislation, aside from traditional ‘fisheries laws’, can be associated with relevant related offences such as document fraud, human trafficking, racketeering or corruption.

In sum, due to its cross-cutting nature, fisheries crime needs to be addressed from a multi-disciplinary, cooperative criminal law enforcement approach both nationally and at an international level. Those aspects regarding transnational organized crime in the context of the fishing industry lie within the mandate of UNODC. Domestically, collaboration is required between an array of authorities to tackle this crime, including the departments of fisheries, ports and customs, as well as law enforcement agencies and armed forces such as the police, the coast guard and the navy.
inaccurate given the under-researched and complex nature and ever-changing modus operandi of the related criminal activity. It is more useful to refer to different examples of fisheries crime to illustrate its various methods, its extent and its economic value.

Fisheries crime may take the form of illegal harvesting of abalone in exchange for precursors for methamphetamines (as in a South Africa case); trafficking in explosives in connection with blast fishing (in Tanzania); identity fraud and marine pollution in connection with illegal fishing on the high seas of the Southern ocean (see the Thunder case included); or murder and threats of grievous bodily harm in connection with possible corruption in the issuing of fishing licenses (in a Somalia case). The extent of the restitution order to South Africa arising from the infamous Bengis case, of approximately $22.5 million, serves as an indicator of the massive economic value lost through fisheries crime. A regional example in East Asia and the Pacific pertaining to illegal harvesting of live reef fish for food, ornamental reef fish, and corals estimates the value lost at around $850 million a year.

Corruption and other financial crimes, such as large-scale tax evasion and money-laundering, are a key element of fisheries crime, rendering it highly profitable and undermining the rule of law and accountability. Financial investigation is thus key to identifying those who profit from fisheries crime.

Fisheries crime and Transnational Organized Crime

Fisheries crime is conducted in a manner that incorporates numerous organized criminal activities including wildlife crime, corruption and money laundering. Transnational groups, linked to these and other criminal activities pose a complex problem when trying to trace and identify their crimes, since they hide through a web of financial havens, privacy laws and corporate structures present in more than one legal jurisdiction. Moreover, the current climate of extreme over-fishing results in less fish in the sea, rendering fish more valuable and, in turn, increasingly attracting the attention and involvement of transnational organized crime syndicates to the fisheries sector.

The complexity of this crime is compounded, by the need to thoroughly understand the nature of fisheries crime as a series of or-
ganized criminal activities carried out within the fisheries sector, so that it can be treated at the same level as, for example, money laundering or tax fraud. Some approaches in this regard would be to identify all activities that constitute fisheries crime in order to link them to transnational organized crime more clearly when drafting national laws, and include more criminal provisions in domestic fisheries legislation. 4

Combating fisheries crime poses multiple law enforcement challenges, such as an effective investigation of ownership or control of fishing vessels. An approach to fisheries crime similar to corporate crime cases is thus necessary, with the need to look for patterns and gather information involving tax havens and bank secrecy. Information sharing is also vital as part of an intelligence-led investigation. Fisheries crime, moreover, is often clandestine with few witnesses. It is difficult to know who the ultimate beneficiaries and instigators are since the persons detained on a vessel may be the only identifiable offenders and, in this regard, regular methods of investigation are hard to use to stem this crime. 5 Given the transnational nature of most fisheries crime, cross-border cooperation is therefore key, as is multi-agency coordination.

Fisheries crime and illegal fishing
One facet of fisheries crime at a transnational organized level is large-scale, illegal fishing which threatens the stability of coastal communities – economically, socially and politically – particularly in developing regions. 6 In areas such as West Africa and South East Asia small-scale or artisanal fishers depend on sustained stocks of near-shore fish for their livelihood and as a subsistence food source. Considering the already-strained fish stocks in these regions, these groups are increasingly vulnerable. 7 As fish is a key source of animal protein in many coastal countries, diminishing fish stocks puts an increased strain on local and national food security which in turn can make Governments more unstable. 8

Fisheries crime and economic crimes
One of the multiple types of crimes that take place in the fisheries sector is corruption. 9 As a facilitator of organized crime, it is intertwined with other types of crime carried out in the fisheries sector, including smuggling and potentially human trafficking. By corrupting law enforcement officials and border or port guards, corruption

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also enables the smuggling of illegal cargo, such as illicitly caught fish. There are reported instances of vessels where both trafficking in persons and criminal fishing activity have taken place, such as the case of 33 Ukrainian nationals trafficked on board fishing boats in the Sea of Okhotsk who were reportedly involved in crab poaching. Corruption is also associated with the use of flags of convenience, in which criminal networks exploit the unwillingness or inability of the States where ships are registered in exercising their criminal jurisdiction over the vessels when the latter engage in fisheries crime.

In particular, fisheries crime adversely affects less developed and unstable countries, where criminals exploit weak institutions and the lack of a culture of transparency. Money laundering from fisheries crime can affect government functions and perpetuate weak institutions.

**The value of fisheries crime as an illicit activity**

While an exact calculation of the economic value associated with fisheries crime is difficult to gauge, and any figure related to such a broad and complex range of criminal activities should be treated conservatively, it is nonetheless necessary to put one forward to understand the size and financial importance of this activity for organized criminal networks. Regarding the illegal fishing aspect of fisheries crime, in pure economic terms, the value of fish lost to criminal activities alone is suggested to be between $10-23.5 billion annually. To this figure one must add the value lost to associated criminal activities in the fisheries sector, such as document fraud, tax evasion, money-laundering and others. Only then can one get a full picture of the extent of the value lost to organized criminal activities in the fisheries sector.

Decreasing fish stocks force fishers to travel further and spend more time making their catch. With extended periods at sea leading to higher crew costs, the potential for using cheap forced labour increases. As mentioned, the resulting scarcity of fish in the sea due to overexploitation renders their catch more valuable and attracts the further attention and involvement of transnational organized criminals to the fisheries sector.

Organized criminals involved in the fisheries sector range from recruiters on land to senior crew members and employees or officials in fishing companies (‘operators’), who are driven by profit. Each actor makes money in a different way: brokers and recruit-
ers from connecting workers and fishing operators; and senior crew from potentially exploiting labour on board, or selling fish caught illegally.

There is widespread vulnerability to tax crime in the fisheries sector as well, including frauds on taxes on profit or earnings, customs duties, VAT and social security. Across the board, the tax revenue lost to criminal activity in fisheries is likely to be significant. The effect of this loss on developing countries may be particularly great, impacting food security, poverty levels and the financing of long term development.17

Social and economic consequences

Fisheries crime has devastating social, economic and environmental consequences. Up to $1.3 billion a year is lost to criminal fishing activity in West Africa alone.18 It impacts negatively on coastal communities consisting of artisanal and subsistence fishers whose livelihoods and food security are threatened and whose sustainable, long-term trade opportunities in bigger markets are affected. International efforts to curb fisheries crime to date have largely failed as criminals exploit the legal loopholes in fisheries laws internationally and domestically. Business models are habitually designed to absorb fines, blacklisting and other administrative penalties imposed by such legal systems. These costs are included as part of illicit business costs and organized criminal networks often operate or buy from fishing vessels that are registered in States that are unwilling or unable to adopt or enforce applicable rules and laws.

A further concern is linked to jobs: using the example of West Africa again, fisheries employ more people than other industries such as mining or oil extraction, with up to a quarter of all jobs related to fisheries. The vast, intra-regional fish trade network including small-scale producers employs a large number of women who are equally at risk of losing revenue and have greater difficulty finding work in other industries.19

As fish stocks dwindle and boat operators being skilled in travelling at sea for long distances in a clandestine manner,20 there is greater potential for engaging in diverse criminal activities, such as smuggling people and illegal cargo, or engaging in piracy.

FISHERIES CRIME AND ILLEGAL FISHING

An INTERPOL purple notice and 110 days of cat and mouse chase across the Southern Ocean culminated in the Thunder – a toothfish poaching vessel – being intentionally sunk by its crew off the Gulf of Guinea. The international crew of 30 sailors had operated the vessel under three different names and flags seeking lucrative returns from the illicit trade in toothfish – known to fishers as “white gold”. These high value marine predators are increasingly under threat. Estimates suggest that the criminal gang in charge of this vessel alone would have earned more than $60 million in less than 10 years.16

In areas such as West Africa, it is small-scale or artisanal fishmen who depend on sustainable, near-shore sources of fish for their income and food source who are most at risk, particularly given already-strained fish stocks. Photo: Boats parked at the Soumbedioune fish market in Dakar, Senegal. © Jeffrey Attaway.
Regarding economic consequences, important national revenues gained through taxes duties or permits is lost, impacting particularly adversely on developing coastal states. Additional to the lack of economic development disruption to the legitimate market is considerable.

**What can be, and is being, done?**

1. **Law enforcement:** In order to more effectively prosecute fisheries crime both domestically and internationally, many African and Asian coastal states have criminalized illegal fishing within their Exclusive Economic Zones, however, penalties for such criminal activity vary. Additionally, most countries criminalize other types of crimes that occur in the fishing sector such as corruption, money-laundering, and document fraud. As fisheries crime is transnational and organized, cooperative law enforcement efforts, including intelligence-led cross-border investigations must be enhanced to address fisheries crime in all its various forms in the fishing sector, focusing on targeting the key individuals who are the real beneficiaries of such criminal activities.

2. **Stem the overexploitation of marine resources:** Many flag states have criminalized unlicensed fishing by vessels in their registers, including on the high seas, in order to enable criminal investigators and prosecutors to pursue the free riders benefiting from uncontrolled exploitation of common fishing resources. Flag states must be encouraged to fulfil their international law obligations and investigate and prosecute those involved in fisheries crime.

3. **Consumer markets actions:** Some market states, like the USA, are raising their efforts to combat seafood fraud. Similar measures in market states could target several aspects of fisheries crime, including tax and customs fraud in the fishing and processing industries.

4. **International cooperation:** Several UNODC initiatives, such as the Global Programme for Combating Wildlife and Forest Crime, the Maritime Crime Programme, the Global Programme on Money Laundering and the Container Control Programme, can be tailored to improve intelligence-led domestic and cross-border cooperative law enforcement efforts against fisheries crime. This work can be done in coordination with other international organizations, such as INTERPOL (with its Fisheries Crime Working Group), OECD (tax offences) and FAO (legal reform) to enhance information and intelligence sharing on this topic and to participate.

**FISHERIES CRIME AND TAX CRIMES**

Detailed data on tax crimes in the fishing sector is currently limited as research in this area is still in its infancy. Nevertheless, a few illustrative examples serve to highlight its potential extent. One method of tax evasion in the fishing sector is avoidance of import duty by disguising the origin of the fish concerned. For example, there have been reported cases, in which fish destined for the EU market is stated as having been caught in a country with which the EU has a trade agreement, whereas in fact it has been caught elsewhere, thereby evading the 6 per cent import duty that would otherwise have been charged. 21
in coordinated international operations. Awareness about fisheries crime and the international efforts to combat it can be enhanced through regional Coast Guard fora, targeted development aid, shared databases – for instance the UK’s “Satellite Watchroom” 23 – and up-to-date national authorities directories. 24

5. Policy and legislative review & reform:
At the request of Member States, UNODC can review penal codes and other laws related to fisheries crime to identify criminalization status and penalties in order to strengthen these criminal provisions and better facilitate addressing fisheries crime. The aim is to have a holistic legal reform on fisheries crime and the corresponding criminal procedure to ensure effective investigations, prosecutions, sentencing and penalties for all types of fisheries crime: from corruption to money laundering to tax fraud. Penalties must reflect the seriousness and economic value lost through fisheries crime. Expert group meetings on strengthening frameworks for regional and cross-border cooperation can also be held when requested by Member States. UNODC can also facilitate and provide support in drafting relevant guiding documents to enhance regional and cross-border cooperation between States against fisheries crime. Information sharing of fisheries crime case law and legislation can be facilitated by UNODC’s SHERLOC database through the dissemination of best practices in successful investigations and prosecutions of fisheries crime.

6. Enhancing criminal justice sector and law enforcement response to fisheries crime:
- UNODC, where requested, can assist in enhancing States’ criminal justice sectors, aiming to improve fisheries law enforcement as needed. This can include specialized spheres such as financial investigations to identify illicit financial flows from the proceeds of fisheries crime, including money-laundering, countering corruption in the fishing sector and the use of containers to transport illicit products. It also includes developing practical manuals for identifying fisheries crime offences including tax evasion and money laundering.
- UNODC places specific emphasis on improving capacity to deal with money laundering, corruption and illicit financial flows to identify the proceeds of fisheries crime via specialized trainings and workshops and to facilitate cooperation and information exchange in this sphere.

A method which further illustrates the avoidance of import duties, as well as VAT and other taxes, arose in a case concerning the mislabelling of exported dried codfish as dried cod heads. Here, a total of approximately $500,000 was avoided in taxes in the export country. In the importing country, the evasion of customs duties potentially totalled $2.5 million. 22 Both cases also involved document fraud.
UNODC can facilitate capacity-building of fisheries law enforcement officials to effectively gather, analyze, disseminate and use information and intelligence to promote law enforcement regarding fisheries crime. UNODC can provide justice and prosecutorial training related to fisheries at the national and sub-regional levels.

Member States that have established Transnational Organized Crime Units (TOCUs), per UNODC’s recommendation, can sensitize these units to understand and identify fisheries crime and expand their mandate to include law enforcement efforts to address it, particularly its transnational aspects. At the national level, inter-agency and cross-departmental coordination can be enhanced, applying a “whole of Government approach” in which the cooperation between fisheries and other relevant agencies – such as police, tax, customs and labour inspection authorities as well as the criminal justice system – is enhanced against fisheries crime.

7. **Public awareness-raising:** UNODC will raise awareness of the existence of fisheries crime, its multi-faceted nature and its global reach, focusing on increasing public and political awareness of its adverse social, economic, ecological and political impacts on developing countries with the aim of supporting the policies and law reforms which better address fisheries crime domestically and internationally. This includes educational and awareness-raising workshops and presentations at appropriate domestic and regional fora to this end, and also through print materials, web, social media, celebrity endorsements, press releases, expert interviews, and NGO partnerships.

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**A TRANSNATIONAL AND ORGANIZED CRIME**

Within the United Nations Convention against Transnational Organized Crime, 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.” A “serious” crime is one which carries at least four years of imprisonment or a “more serious penalty.”

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Fish inspection conducted by the Norwegian Coast Guard. Photo: Håkon Kjøllmoen/Forsvaret.
In Costa Rica, fisheries criminals are threatening not only the sharks, but also other species such as turtles and sting- and manta-rays. Photo: Steve L.

References

10 Ibid p.97
13 Ibid p.89
14 Ibid p.97
16 Ibid p.97

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