How to stop illegal fishing:

# PORT STATES

stop illegal fishing

**AFRICAN PORTS NETWORK**
to stop illegal fishing

# WHY ARE PORT STATES IMPORTANT?

Illegal fishing operators target ports that they perceive to have weak controls, where few checks will be made on the vessel's history, identity or authorisation to fish, and catch will be unloaded or transhipped with no checks on whether it has been legally caught. These ports contribute to the illegal exploitation of fisheries resources, damage the economic growth of developing countries and undermine the wellbeing of legitimate fishers.

Port States can deny port access to vessels that they suspect or know have been involved in illegal, unreported and unregulated (IUU) fishing or other violations. Or they can allow the vessel to enter their port to enable them to inspect the vessel and take further action, including preventing the offloading of catch and denying other services.

To do so, certain systems need to be in place. Requiring early requests for port access gives authorities time to gather information on a vessel and make an informed decision to grant or deny port access and whether to prioritise the vessel for an inspection. Once in port, inspections are important to identify an array of crimes including illegal fishing, forgery and fraud, and forced labour.

Port States control whom they allow to use their port for offloading, transhipment and for servicing of the vessel and crew. Preventing illegal catches from being landed at the first point of landing is important to stop illegal fishing because it becomes more difficult to detect illegalities afterwards.

# WHAT CAN PORT STATES DO TO STOP ILLEGAL FISHING?

## RATIFY AND IMPLEMENT INTERNATIONAL AGREEMENTS

The United Nations (UN) Food and Agriculture Organization (FAO) Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing (PSMA), in force since 2016, strengthens port controls to prevent illegally caught fish from entering the global market.

Strong uptake of the PSMA, particularly from developing countries, demonstrates the recognition that port controls are a low cost, highly effective means of stopping illegal fishing. Becoming a party to and implementing the provisions of the PSMA means that a country is working to keep illegally caught fish and illegal vessels out of their ports.

Regional clusters of ports implementing the PSMA will effectively block illegal operators from a region, forcing them to relocate, putting them out of business or forcing them to change their way of doing business and to operate legally.

Improving governance in oceans, fisheries and ports can be strengthened by cooperation between fisheries, maritime safety and labour sectors.

The International Maritime Organization (IMO) Cape Town Agreement (CTA) will address safety of vessels and provide a cooperative framework for vessel inspections, while the International Labor Organization (ILO) Work in Fishing Convention (C188) addresses human trafficking in the fishing industry. Ratifying and implementing these two instruments along with the PSMA will provide a port State with different routes to increase the likelihood that it can identify IUU fishing practices and ensure legal, safe and fair fisheries.

**LEGAL**
Is the catch legal?
Port State Measures Agreement

**FAIR**
Is the treatment of the crew fair?
(C188) Work in Fishing Convention

**SAFE**
Is the vessel safe?
Cape Town Agreement

## DEVELOP EFFECTIVE NATIONAL LEGISLATION

National implementation of the provisions of international fisheries agreements, such as the PSMA and conservation and management measures (CMMs) of regional fisheries management organisations (RFMOs) requires their incorporation into domestic law.

In addition, the application of non-fisheries national and international legislation in the fisheries sector e.g. in respect to maritime safety and labour, will strengthen actions against crimes that support and enable illegal fishing.

Providing adequate mandate to agencies and personnel to do their jobs and embedding their roles and responsibilities, including in respect to interagency cooperation into fisheries legislation is required. Equally the duties and liabilities of the vessel operators and agents need to be set out in the legislation.

The ability to take effective action against non-compliance once identified, must be embedded into the legislative and regulatory framework with fines, penalties and sanctions against illegal operators that are severe enough to be a significant deterrence.

## BUILD CONTROLS INTO PORT USAGE CONDITIONS

Access to port to offload or tranship catch, take on fuel, crew and provisions or undergo repairs and maintenance is essential for fishing vessels. The denial of port access or requirement for in-port inspection provides a powerful means of identifying illegal fishing activity and of disrupting the operations of illegal vessels.

The requirement for vessels to provide advance notice for port entry is key for adequate checks, verification and decision making to take place. Regulations can be used to require all fishing vessels have IMO numbers as a condition of port usage, and restrictions on transhipment to ensure that catch offloaded has been caught with the relevant authorisations.

## MAKE CAREFUL AND INFORMED PORT ACCESS DECISIONS

Requiring advance notice of a request for port entry gives fisheries officers the opportunity to identify illegal operators, deny them access to port, or authorise port access to undertake an inspection. Granting port access to a fishing or support vessel should only happen when due diligence has taken place to check the legality of the vessel, the fishing activity and its owner or operator.

Port access procedures should be open, accessible and transparent, to prevent corruption.

## INTRODUCE SYSTEMATIC CONTROLS

Systematic checking is an effective tool to identify illegal vessels, fishing activity or operators; this can be achieved by adopting standard procedures for processing port access requests. Use of checking and verification processes to verify the identity, history and activity of the vessel and its owner and operator should be systematically applied.

Checking the authenticity and accuracy of documents and verifying this information with issuing States and external sources, as well as checking document information against the actual vessel and catch will prevent vessel identity fraud and disrupt illegal operators.

## PROVIDE EFFECTIVE OVERSIGHT

Inspections form the primary oversight mechanism for port States. An assessment of the capacity needed to implement PSMs is required in all important or PSMA designated ports. Where gaps in capacity exist, training and capacity building initiatives are required.

Alongside inspections targeted on high-risk vessels, random inspections should be undertaken using a neutral selection method.

Improving the quality not quantity of inspections is vital because poor inspections are damaging as the industry can be presented as being compliant when it may be riddled with illegalities.

## BE TRANSPARENT

Illegal operators have long taken advantage of the lack of public information available on fishing vessels and on IUU fishing activity. By routinely making information on port visits easily accessible and publicly available, port States undermine efforts to conceal illegal activity.

Making the port access process clear and transparent and providing public access to information on vessels in port enables cross-checking and validation by other port States as well as flag, coastal and market States.

## TAKE ACTION AGAINST NON-COMPLIANCE

Port State support to flag and coastal States when IUU fishing is identified is essential. Key actions include: the exchange of information and provision of mutual legal assistance in investigations and judicial proceedings; repatriation of crew from vessels when human trafficking is identified; proposing vessels for IUU listing by RFMOs; and, publicising cases, even when sanctions cannot be applied because making case information public helps build awareness.

Increasing the security routines at ports if vessels are suspected of illegal activity is important to avoid vessels absconding.
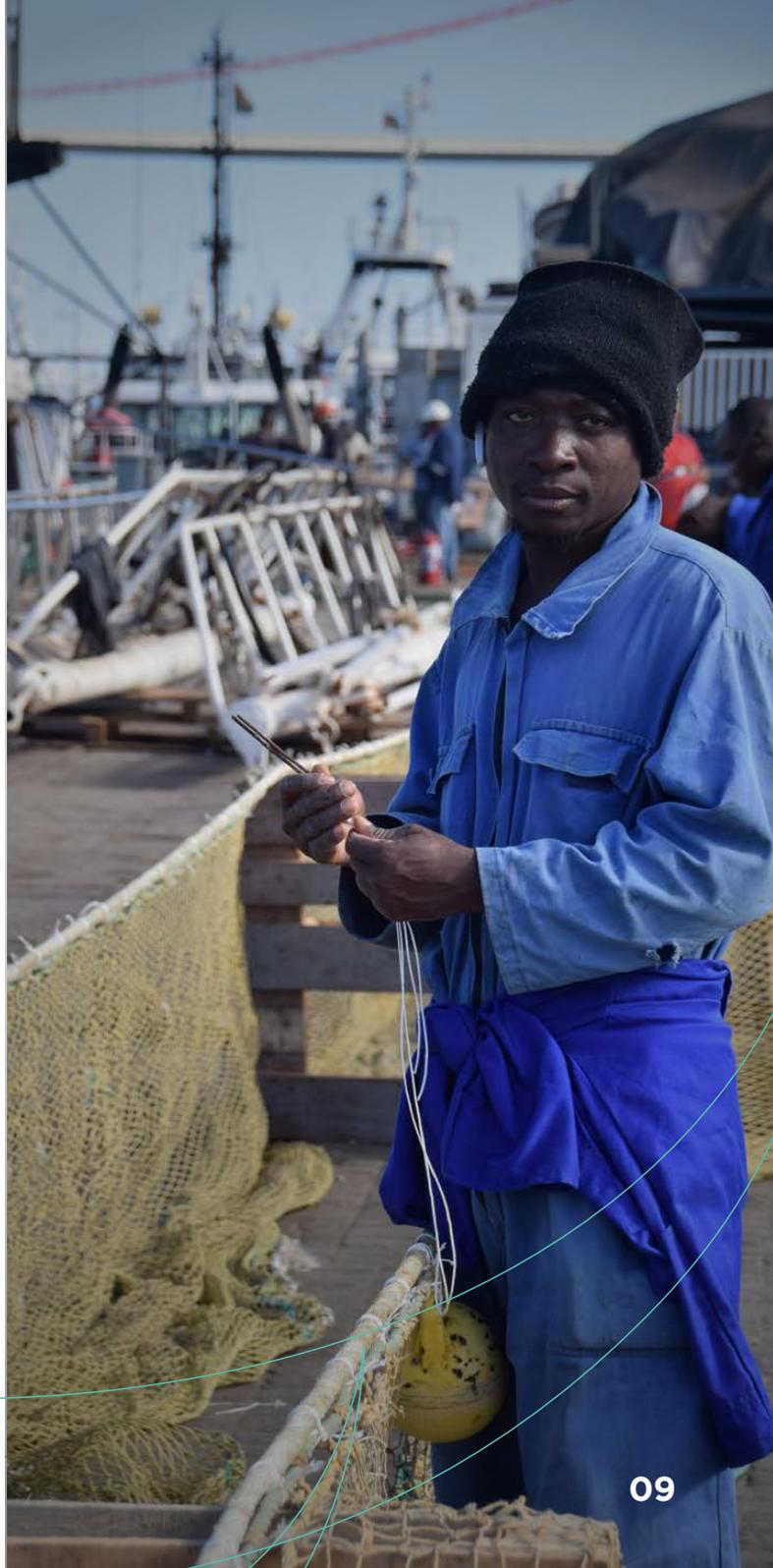
## NATIONAL INTERAGENCY COOPERATION

Close cooperation between port authorities and fisheries inspectors is particularly important for exercising control over foreign flagged fishing and support vessels. In addition, cooperation with the marine police, safety, customs, immigration and labour authorities as well as the coastguard or navy will be necessary at different stages of checking, inspecting and taking action.

Establishing working groups with communication channels for routine sharing of information and an alert system for notification when high-risk or illegal activity is identified are key. This also facilitates cross-checking and verification of information, sharing of resources and cooperation on due diligence checks and cases of illegal fishing. MOUs and protocols for the exchange of information and coordination of activities among relevant authorities can be developed and implemented.

## REGIONAL INFORMATION SHARING

Developing mechanisms to check and share information with neighbouring port States will help to create awareness of illegal fishing vessels. Sharing information on port visits, offloading and in-port transhipment may be used to identify illegal at-sea transhipment.

Working with relevant regional task forces of coastal and port States, and regional maritime security centres will increase awareness and knowledge of fishing and support vessels, their activities and identities.

## GLOBAL INFORMATION EXCHANGE

Increasing systematic cooperation with coastal, flag, port and market States by making it easy for States to contact each other, and by responding quickly to requests for information, assists in implementing the port State measures. This can include, providing information, documents, photographs and movement tracks to coastal, port and market States to support cross-checking and verification.

Participating in international organisations and fora helps in developing an understanding of other States' needs and to make evidence of violations available. Sharing data on landings and transhipment with coastal States and RFMOs can support effective fisheries management.

## PUBLIC ACCESS TO INFORMATION

Public information increases global oversight. Making information public helps to fight corruption and provides civil society and non-governmental organisations with the opportunity to increase oversight on fishing vessels and identify potential illegal activity. Photographs of fishing vessels are highly useful for identification purposes, taking, sharing and storing photographs publicly can assist in identification of illegal vessel identity.

## TRANSPARENCY

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Be clear on the national interest in providing port services to fishing vessels, reefers and support vessels, and the potential costs and benefits, to the economy and national standing, in doing so.

Require transparency from vessel owners on their company structures and beneficial owners.

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Mandatory requirements such as use of AIS and IMO numbers help prevent vessel identity fraud and enable the monitoring of vessel activity.

## PORT STATE RESPONSIBILITY

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### LEGAL AND POLICY FRAMEWORK

Ratify and implement the Port State Measures Agreement.

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Develop effective national laws, which address illegal fishing and associated crimes such as modern day slavery.

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Build awareness and political will for responsible port controls.

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Legal framework in place to ensure appropriate investigation, enforcement action and penalties are imposed, creating a true deterrent effect.

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Balance the needs for economic growth with sustainable and equitable fishing.

### PORT ACCESS REQUIREMENTS

Designate specific ports for use by foreign flagged vessels, and ensure there is capacity and expertise to conduct inspections.

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Make the use of AIS mandatory for vessels offloading catch, to make cross-checking of catch data and fishing activity possible.

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Require all vessels using port services to have IMO numbers.

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Ban unsupervised at-sea transhipment.

## COOPERATION

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Work with national authorities to build awareness and understanding of the damage caused by illegal fishing, and the central role of port States in stopping illegally caught fish entering the supply chain.

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Build critical political will to tackle illegal fishing.

Develop close relations with allied agencies, particularly the port authorities and marine police to ensure good regulations and policies are adopted and implemented.

Make information on port visits publicly available.

Contribute vessel information to the Global Record of Vessels.

Mandatory use of AIS and making VMS information publicly available, allows greater monitoring of vessel activity by civil society actors.

Publicise cases, even when sanctions cannot be applied making case information public helps build awareness.

IUU listing creates a lasting record of non-compliance.

## PORT ACCESS DECISIONS

Establish standard procedures, these lead to greater transparency on decision making reducing opportunities for corruption.

Conduct thorough due diligence checks on the vessel, owner and operator before approving port access.

Verify vessel information and check that documents are genuine and the information matches the vessel's physical characteristics.

Take a stand against vessels flying flags of non-compliance by refusing port access.

Require confirmation of fishing authorisations from coastal States.

## MONITORING, CONTROL AND SURVEILLANCE

Inspect vessels to verify the legitimacy of the vessel, catch and players.

Check positional data such as AIS and VMS to confirm where fish has been caught and to identify illegal at-sea transhipment.

Install CCTV cameras to monitor offloading of catch.

Interview independent observers to verify that fish have been caught legally.

Combat modern day slavery by providing interpreters to interview crew, and conduct interviews one-on one.

## TAKING ACTION AGAINST NON-COMPLIANCE

Fully support investigations into alleged non-compliance.

Repatriate crew from flagged vessels when human trafficking is identified.

Propose vessels for IUU listing by RFMOs where possible.

Build national interagency cooperation to share cross-check and verify information.

Always verify information with previous flag States.

Establish quick and accessible channels of communication so that flag, port and market States can verify information.

Cooperate with regional task forces of coastal and port States such as FISH-i Africa and the West Africa Task Force to establish ongoing information exchange.

Promote multi-agency engagement in joint exercises and fishing vessel inspections to increase awareness and ensure compliance with all legislation, inc. fisheries, maritime, labour and criminal legal frameworks.

Exchange information with other States and provide mutual legal assistance in investigations and judicial proceedings.

# PORT STATE RESPONSIBILITY

Port States are responsible under international law to control and monitor fishing vessels entering and using their ports and fish being moved through their ports.

They do this by requiring an advance request for entry into port to enable them to check the legality of the vessel, it's catch and owner prior to permitting port entry. Once in port a vessel may be inspected by multi-agency inspection teams, to ensure that it has complied with all relevant legislation including fisheries, maritime safety and labour laws.

Advances in information availability and sharing make IUU fishing history harder to hide and the cross-checking of information and documents easier to conduct.

These moves towards transparency and the sharing of information support willing countries to be responsible port States and through this to contribute towards their own blue growth and global efforts to meet sustainable development goal 14.4 to end IUU fishing.

# KEY RECOMMENDATIONS

Become party to and implement the PSMA.

Designate ports for use by foreign flagged vessels.

Require IMO numbers and use of AIS for all vessels using port.

Staff ports with competent and confident inspectors.

Require all fishing vessels to provide an advance request for entry into port.

Set up multi-agency risk assessment procedures to identify high-risk vessels.

Deny access to vessels known to be involved in IUU fishing or allow entry for inspection.

Conduct inspections on vessels suspected of IUU fishing and random checks on all vessels.

Share information with neighbouring port States, RFMOs and regional task forces.

Work with national agencies to share information and take joint action.

Build links and information sharing channels to flag, market and coastal States.

Make information public to increase transparency and oversight.

The 'How to Stop Illegal Fishing' series aims to improve awareness and understanding of the roles and responsibilities of different actors in stopping illegal fishing. As with all of SIF publications, it targets the needs of African fisheries and countries, is based on evidence and analysis, and places legality in the fisheries sector as an essential element of sustainable development.

**PORT STATE**
TOOLKIT

Stop Illegal Fishing is working at a practical and policy level to support coastal, flag, port, market and crew States to take action against illegal fishing. This publication is part of our Flag State Toolkit, and should be cited as Stop Illegal Fishing (2019) How to Stop Illegal Fishing: Port States. For more information on stopping illegal fishing visit:
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stop illegal fishing

**PORT STATE MEASURES**
to stop illegal fishing

**AFRICAN PORTS NETWORK**
to stop illegal fishing

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