



APG Issues Paper: Illicit financial flows generated from illegal fishing

November 2023

Executive Summary

This paper considers illicit financial flows arising from illegal fishing, and sets out the issues that may be undermining an effective Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) response. Commonly characterised as a regulatory or 'fisheries' issue, the financial dimensions of illegal fishing pose a complex challenge for law enforcement due to a number of factors including:

- (1) A lack of understanding of the transnational nature of this crime;
- (2) Weak international coordination on illegal proceeds of illegal fishing; and
- (3) Absence of parallel financial investigations.

Preliminary research reveals that jurisdictions generate a limited amount of financial intelligence and information on the nature and dynamics of illicit financial flows associated with illegal fishing. Opportunities exist to build knowledge, expertise and understanding of the typologies unique to illegal fishing in order to effectively conduct relevant financial investigations. Re-characterising illegal fishing as a predicate crime-type for money laundering (ML) could more effectively trigger effective AML/CFT responses to tackling this complex transnational threat.

The project team provides a list of seven recommendations (specific and general in nature) to respond to the challenges identified.

Introduction

Illegal fishing is one element of 'Illegal, Unreported, Unregulated' (IUU) fishing. It is fishing activity conducted by national or foreign vessels in waters under the jurisdiction of a state, territory or jurisdiction, without their permission, or on the high seas in contravention of the laws and regulations of international law, and management measures of regional fisheries management organisations (RFMOs).¹

The observations in this paper build on initial research conducted in 2022 as part of the APG's *Yearly Typologies Report 2022 (Appendix A)*, and suggests re-characterising illegal fishing from the traditional view as a fisheries management issue to a serious transnational financial crime issue. Such a re-characterisation is necessary to trigger effective AML/CFT responses to tackle the threat posed to the international financial system.² At present, there remains a distinct

¹ Phelps Bondaroff, et al (2015), *The Illegal Fishing and Organized Crime Nexus: Illegal Fishing as Transnational Organized Crime*, The Global Initiative Against Transnational Organized Crime and The Black Fish, citing FAO, 2001, *International Action Plan to Prevent Illegal, Unreported and Unregulated Fishing on Developing countries*, Rome. See also C4ADS (2019), *Strings Attached: Exploring the Onshore Networks Behind Illegal, Unreported, & Unregulated Fishing* at: <https://c4ads.org/iuu-fishing> (accessed 31 October 2023).

² APG *Yearly Typologies Report 2022 – Methods and Trends of Money Laundering and Terrorism Financing*, Chapter 1: *Illicit financial flows from IUU fishing, Australia* at: <https://apgml.org/includes/handlers/get-document.ashx?d=d2972f3d-aa22-4b7f-ac9e-848cd26e9461>, accessed 18 October 2023.

paucity of credible research or intelligence on how the proceeds from illegal fishing are integrated into the legitimate economy.³

This paper is focused on illicit financial flows generated from illegal fishing in the territorial waters of member-jurisdictions of the APG to keep within the geographical bounds of those member's powers and responsibilities. Unreported and unregulated fishing will not be explored in detail in this paper.

Illegal fishing, as a FATF category of environmental crime (a designated predicate offence to ML), is increasingly conducted by transnational crime groups, and is valued at an estimated USD 10-23.5 billion per year, undermining the legitimate fishing industry and posing a threat to national and regional security⁴ although other estimates are higher – upwards to 15.5 to 36.4 billion.⁵ Adding concern and complexity to this picture, illegal fishing intersects with multiple other crime types such as corruption, fraud, trade-based money laundering (TBML), human and drug trafficking, slavery and labour exploitation, arms trafficking, tax evasion, document and customs fraud, and wildlife crime.

The objective of this paper is therefore to set out APG members' current application of the AML/CFT tools, including the use of financial intelligence and the execution of financial investigations in disrupting illicit financial flows generated from illegal fishing.

Methodology and Activities

In October 2021, the APG Operations Committee approved a concept note for a typologies research project in order to understand and investigate the nature and dynamics of illicit financial flows generated from IUU fishing and how those proceeds are integrated into the legitimate economy.

In February 2022, the APG project team⁶ narrowed the scope of the project to one element of IUU, illegal fishing, to ensure that the project focused on areas where APG members' powers and responsibilities could be exercised within their jurisdictional limits. The project team developed an illegal fishing project questionnaire (**Appendix B**) based on a roundtable discussion during the 2022 APG Annual Meeting. The questionnaire (consisting of 51 questions) was distributed to APG members in August 2022 and included five sections:

- (1) AML/CFT frameworks;
- (2) International cooperation;
- (3) Financial intelligence;
- (4) Investigations into illicit financial flows from illegal fishing; and
- (5) Indicators and case studies.

³ Rivaz, C., Haenlein, C., Reid, A., Nouwens, V. (2019), *Turning the Tide? Learning from Responses to Large-Scale Illegal, Unreported and Unregulated Fishing in Five Countries*, RUSI at: <https://rusi.org/explore-our-research/projects/turning-tide-learning-responses-large-scale-illegal-fishing#project-outputs>, accessed 18 September 2023.

⁴ Ibid. See also Henrik Osterblom, (2014) *Catching Up On Fisheries Crime*, *Conservation Biology*, Wiley Periodicals, 878.

⁵ Channing Mavrellis, *Transnational Crime and the Developing World*, *Global Financial Integrity*, 27 March 2017, at: <https://gfintegrity.org/report/transnational-crime-and-the-developing-world/>>. This estimate is cited in Rivaz C. et al, *ibid*.

⁶ The project team consisted of delegates from: Australia, Canada, Fiji, New Zealand, Pakistan, Sri Lanka, the United States, Oceania Customs Organisation, Pacific Islands Forum Fisheries Agency, the United Kingdom, United Nations Office of Drugs and Crime, Royal United Services Institute (RUSI) and the University of Wollongong's Australian National Centre for Ocean Resources and Security (ANCORS).

The discussion below on the questionnaire's findings are structured around these five points.

Questionnaire Findings

Responses to the project questionnaire were received from 16 sources:

- 14 APG member jurisdictions;
- one observer jurisdiction; and
- one observer organisation.

The project team considered the sample size significant enough to draw relevant and meaningful conclusions. Supporting research and qualitative analysis was used to determine the key themes emerging in governments' approach to the issue of criminal proceeds generated from illegal fishing.

The following summary of responses to the questionnaire provides an outline of the application of AML/CFT controls to disrupt illicit financial flows generated from illegal fishing, including the development and use of financial intelligence and the conduct of financial investigations relating to proceeds of illegal fishing.

1. AML/CFT frameworks

Illegal fishing is criminalised in all surveyed member jurisdictions and is a predicate offence for ML in all but four of those members. All surveyed members are also signatories to global and regional instruments, agreements or treaties⁷ related to illegal fishing and most have implemented legal frameworks to combat illegal fishing.

APG members may not have sufficiently identified the risks associated with illegal fishing.⁸ The majority of surveyed members had not identified the risk of laundering the proceeds of, or TF through, illegal fishing as a factor in any of their risk-based supervision models. The majority of members have also not conducted supervisory activity specifically targeting ML/TF related to illegal fishing in the past five years.

Complex company structures are established by criminals to obfuscate beneficial ownership of vessels and companies used in illegal fishing. Several APG members listed the use of complex structures as a red flag for beneficial ownership concealment in their case studies. Approximately half of the surveyed members require the beneficial ownership of legal persons to be recorded in a central registry.

The majority of APG members indicated they require further training in multiple areas relating to illegal fishing including: identifying illegal fishing risks; the ML/TF elements of illegal fishing; and identifying and using available resources and information exchanges between domestic agencies.

⁷ Examples of such instruments, treaties and agreements include: International Plan of Action – IUU, Regional Plan of Action – IUU, United Nations 1995 Fish Stocks Agreement (UNFSA), 2004 Food and Agriculture Organization (FAO) Port States Measures Agreement (PSMA), Regional Fisheries Management Organisations (RFMOs) and North Atlantic Fisheries Intelligence Group INTERPOL.

⁸ Canada provided information on its recent ML/TF risk assessment, which included consideration of illegal fishing. Illegal fishing was assessed to pose a medium-level ML risk. Department of Finance Canada (2023), *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* at: <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/updated-assessment-inherent-risks-money-laundering-terrorist-financing-canada.html#a5>, accessed 21 September 2023.

2. International Cooperation

APG members reported that international cooperation in relation to illegal fishing remains difficult and delayed despite being signatories to global and regional instruments, agreements and treaties on illegal fishing.

APG members reported that they participate in a wide variety of international meetings and fora as well as multilateral taskforces and international cooperative arrangements for addressing illegal fishing predominantly as a predicate offence. APG members specifically identified the following:

- (1) Regular delays in receiving information or nil cooperation from foreign jurisdictions as illegal fishing is not considered a high priority; and
- (2) Use of informal requests is common for international cooperation with the majority of jurisdictions indicating informal requests have been used for investigations into illegal fishing.

3. Financial Intelligence

There is limited reporting of suspicious transaction reports (STRs) with a nexus to illegal fishing. Some jurisdictions indicated that illegal fishing is usually reported in conjunction with other crimes. A similar number of jurisdictions indicated they have never received an STR associated with illegal fishing. It is unclear if surveyed members have identified STRs related to suspicion of ML in illegal fishing activities.

The overwhelming majority of jurisdictions indicated that STRs are never or rarely used as a source of intelligence in illegal fishing cases or associated ML cases.

The majority of members indicated that cash transaction reports, SWIFT messages, international funds transfers reports, or cross-border movement forms, have not arisen in any investigation of illegal fishing or associated ML investigation. A lack of transactional reporting makes it difficult to identify illegal fishing.

Members indicated they require further training in identifying the ML/TF elements of illegal fishing. Further training is critical before financial intelligence can be effectively used in illegal fishing cases.

Members reported experiencing challenges with respect to intelligence sharing and cooperation on illegal fishing citing lack of knowledge, expertise, capacity, resources, funds and weak mechanisms for formal exchange of information.

Approximately half of APG members reported they do not impose obligations on the private sector to certify the legality of fishing products. This appears to be an opportune area for consideration or reform.⁹

4. Investigations of illicit financial flows from illegal fishing

While around 40% of surveyed APG members reported they have conducted illegal fishing investigations within the past five years, only one member reported conducting a parallel financial or associated ML investigation related to illegal fishing. A considerable number of members did not respond to the question or advised that relevant data was not available.

⁹ This issue is considered at section 1.4 “Supply Chain Obligations on the Private Sector” at Appendix A.

Many of the responding APG members to the survey reported the following:

- (1) They do not investigate or prosecute cases of illegal fishing due to a number of factors including: a lack of technical expertise (including financial investigative expertise); a lack of resources for training investigative officers; and an additional lack of maritime surveillance and enforcement mechanisms due to large economic exclusion zones;
- (2) They have difficulties in identifying evidence associated with or relevant to illicit proceeds of illegal fishing due to the comingling of legal and illegal fishing outputs in the supply chain.¹⁰
- (3) Incomplete, inaccessible or unavailable information regarding beneficial ownership of companies (or other legal persons) and trusts (or other legal arrangements) involved in ML related to illegal fishing.

Based on the responses, the project team concluded that there are serious systemic issues associated with a lack of parallel financial, or associated ML/TF investigations, into illegal fishing among APG member jurisdictions. The project team sees benefits in members pursuing proceeds associated with illegal fishing, particularly in relation to non-conviction based confiscation.

5. Indicators and case study examples

Of the seven case studies provided by members, three ML red flags associated with illegal fishing were identified:

- (1) High volume of financial transactions and frequent transactions with unrelated parties;
- (2) High numbers of cash withdrawals;
- (3) Large numbers of bank accounts (more than 100) operated by fishing boat owners as well as virtual asset accounts.

Case law review

The UNODC online case law database¹¹ identifies eight illegal fishing cases from APG members, involving a variety of illegal fishing offences between the periods 1980 to 2021. In three of the eight cases, defendants were found guilty of ML or other financial crimes, with penalties ranging from fines; revoking of fishing licences; forfeiture of fishing vessels, equipment, catch and proceeds; and periods of imprisonment. The remaining five illegal fishing cases did not involve any charges of ML or other financial crimes.

Moreover, APG's Yearly Typologies Reports from 2010-2022 include a small number of illegal fishing case studies from APG members, most of which were submitted for the focus chapter on IUU fishing in the 2022 Yearly Typologies Report. Similar to the UNODC case law database finding, a very small number of these cases involved charges of ML or other financial crimes.

Based on the low numbers of reported illegal fishing cases and associated ML cases, it could be concluded that parallel financial investigations are not routinely conducted in reported illegal fishing cases. This is likely associated with limitations in APG members' competent authorities'

¹⁰ Canada provided information on a recently issued Operational Alert, which specifically noted that "[f]ront companies were used to launder proceeds and/or to facilitate illegal wildlife trade. For example, an overseas shipping company specialising in fisheries appeared to be co-mingling legitimate business funds with illicit funds from the illegal wildlife trade of eels." Government of Canada, FINTRAC Operational Alert, 2023, *Laundering the proceeds of crime from Illegal Wildlife Trade* at: <https://fintrac-canafe.canada.ca/intel/operation/oai-wildlife-eng>, accessed 21 September 2023.

¹¹ UNODC, *Sharing electronic resources and laws on crime* (SHERLOC), Case Law Database at: <https://sherloc.unodc.org/cld/v3/sherloc/cldb/index.html?lng=en>, accessed August 2023.

mandates to investigate financial crimes associated with the predicate offence of illegal fishing and financial crime expertise available in fisheries authorities.

Observations and typologies

Canada – *Illegal Fishing related STR*

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), contributed a recent experience with analysing illegal fishing STRs in support of an on-going illegal fishing LEA investigation into suspected large-scale elver poaching.

Case Study (Canada) STR to FINTRAC regarding suspected illegal elver poaching

In May 2023, a Canadian law enforcement authority provided information to FINTRAC regarding an ongoing investigation of suspected large-scale elver poaching centred on INDIVIDUAL A and related individuals and entities (INDIVIDUAL B, COMPANY A, COMPANY B, and COMPANY C). The information provided to FINTRAC indicated that INDIVIDUAL A sold over 120 kilograms of illegally poached elvers for just under CA\$500,000.00. During investigation, ledgers were further discovered indicating elver sales by INDIVIDUAL A of approximately CA\$15 million from March to May 2023. Finally, at the time of his arrest, INDIVIDUAL A was found to have almost CA\$25,000.00 in cash on his person.

A search of FINTRAC’s database regarding INDIVIDUAL A and associated individuals and entities identified relevant transaction reports describing transactions conducted between June 2013 and May 2023, totalling approximately CA\$198 million.

These transaction reports included several STRs. These STRs included references to transactions involving ADDITIONAL COMPANY A, an entity previously unknown to law enforcement. These transactions included:

- Wire transfers ordered by/to the benefit of COMPANY A and COMPANY B, both owned by INDIVIDUAL A, involving ADDITIONAL COMPANY A.
- ADDITIONAL COMPANY A was also the payee of a cheque issued by INDIVIDUAL B, identified by law enforcement as a business associate of INDIVIDUAL A, and ordered a wire transfer to the benefit of COMPANY C, owned by INDIVIDUAL B.

Within the STRs, the reporting entity identified that ADDITIONAL COMPANY A was a “moveable ATM machines” rental company. The reporting entity noted that the account activity of ADDITIONAL COMPANY A was “outside the scope of the ATM rental business and industry” particularly its transactions with the aforementioned INDIVIDUAL A, INDIVIDUAL B, COMPANY A, COMPANY B, and COMPANY C, all of whom are involved in the seafood trade.

Further STRs were submitted to FINTRAC regarding COMPANY A. In these STRs, the reporting entity identified a “sudden and unexplained increase in business activity” in COMPANY A’s accounts. This activity consisted of large dollar incoming wire transfers to the benefit of COMPANY A over the course of a few days after nearly four months of limited account activity. These wire transfers totalled US\$920,000.00 and were ordered on March 27, 2023 and March 30, 2023 by two entities Jurisdiction X and an entity in Ontario, Canada. Further suspicion was identified by the reporting entity regarding the rapid depletion of these funds from COMPANY A’s account between March 27, 2023 and March 31, 2023 via bank drafts payable to INDIVIDUAL A and INDIVIDUAL B and wire transfers to various entities. The reporting entity noted that INDIVIDUAL A was evasive when responding to questions regarding this recent shift in COMPANY A’s account activity.

FINTRAC’s financial intelligence disclosure regarding these transaction reports added significant value to the investigation by Canadian law enforcement, including:

- The identification of ADDITIONAL COMPANY A’s transactions with subjects of the law enforcement investigation. ADDITIONAL COMPANY A was previously unknown to law enforcement;
- Additional details regarding suspected purchasers of illegally poached elvers from subjects of the

current investigation;

- Details on the financial relationships between the subjects of the current investigation; and,
- Specific details on the accounts held by subjects of the current investigation.

Relevant ML indicators identified in this case include:

- Transactions that are unnecessarily complex for its stated purpose.
- Sudden change in client's financial profile, pattern of activity or transactions.
- An individual is the owner, operator, employee or associated with an industry that could be used to facilitate the illegal wildlife trade (e.g., import/export of goods, fisheries wholesaler, pet store, freight company, animal control).
- Large and/or rapid movement of funds.
- The customer refuses to provide information when required, or is reluctant to provide information.

United Kingdom – *Illegal Fishing and TF*

In the context of global IUU fishing, the involvement of large transnational crime groups and complex inter-related criminal activity is a common observation.^{12 13} A TF expert from the United Kingdom provided observations to this paper on the global TF link to illegal fishing:

- Notwithstanding data and information demonstrating extensive links of terrorist activity linked to many aspects of maritime activity, there is a lack of evidence on TF investigations related to the illegal fishing crime type. This could suggest that jurisdictions do not give due consideration to the threat of TF manifesting from illegal fishing in their national risk assessment process.
- Whilst activities may be geographically and contextually constrained due to terrorist groups' proximity to coastal regions,¹⁴ given the level of proceeds generated from IUU activity globally, the exposure to TF threats should be considered by international financial centres who may be vulnerable to processing proceeds of the predicate offences and supply chain mechanisms for the purposes of funding terrorism.
- The TF link to the proceeds of illegal fishing is something to be considered by jurisdictions when combatting illegal fishing. Illegal fishing is often associated with environmental crime and illegal wildlife trade and can be vulnerable to exploitation for raising funds for terrorism activities.

Royal United Services Institute – *relevant body of research*

In 2017 and 2019, the Royal United Services Institute (RUSI) completed two projects specific to IUU fishing, "*Below the Surface: How Illegal Fishing Threatens Our Security*"¹⁵ and "*Turning the Tide: learning from Responses to Large-Scale Illegal Fishing*".¹⁶ The following observations from RUSI's research provide insights into the typologies and trends on illegal fishing and ML and IUU fishing more broadly.

¹² This issue is considered at section 1.2 "IUU and transnational organised crime" at Appendix A.

¹³ UNODC (2016), *Fisheries Crime: transnational organized criminal activities in the context of the fisheries sector*, Focus Sheet at: https://www.unodc.org/documents/about-unodc/Campaigns/Fisheries/focus_sheet_PRINT.pdf, accessed 21 September 2023.

¹⁴ Davis, J. (2021) *Illicit Money - Financing Terrorism in the Twenty-First Century*, Lynne Rienner Publishers, Colorado.

¹⁵ Haenlein, C. (2017), *Below the Surface: How Illegal Fishing Threatens Our Security*, RUSI, at: <https://rusi.org/explore-our-research/projects/below-surface-how-illegal-fishing-threatens-our-security#project-outputs>, accessed 18 September 2023.

¹⁶ Rivaz, C. et al, note 3.

- Evidence on ML linked to IUU fishing remains highly limited, predominantly due to the low number of financial investigations conducted in IUU fishing cases. ML is a critical part of IUU business models as the ability to integrate proceeds into the legitimate economy is what ultimately renders IUU fishing profitable.¹⁷
- On a global scale, the Organisation for Economic Co-operation and Development (OECD) has reported a reliance on shell companies and jurisdictions enabling ownership secrecy.¹⁸
- Beneficial ownership of vessels and entities in the supply chain in a fisheries context is inconsistently defined and regulated across regional and state jurisdictions. Even where it is defined and/or reported, beneficial ownership information is often very difficult to access for those investigating IUU fishing cases.¹⁹
- A 2022 analysis prepared for Oceana’s Transparent Oceans Initiative of a database of 6,053 illegal fishing offences found at least one-third of all recorded offenses were associated with just 20 companies and 450 industrial fishing vessels. Five of these offenders are among the top 10 companies in the world fishing in the high seas and at least 59% of offenses come from Chinese-owned vessels.²⁰
- 11% of the 6,053 illegal fishing offences committed between 2000-2020 and reviewed for Oceana’s 2022 research involved labour and human rights violations, almost all committed by industrial fishers.²¹
- Common IUU fishing tactics and practices include: the use of forged or fraudulently obtained licences; use of illegal fishing gear; use of flags of convenience; flag-hopping, where vessels repeatedly register with new flag states to avoid detection; and serial vessel name changes.²²
- Although large scale IUU fishing should be viewed as a form of serious and organised crime, it is rarely perpetrated by what are commonly called ‘conventional’ organised crime or ‘mafia’-style operations. Instead, operations tend to align more closely to a model of corporate criminality, conducted under a veil of perceived legitimacy by ostensibly legally operating entities.²³
- Siloed legislation and regulations, with each area of concern – whether IUU fishing, human trafficking, financial crime or corruption – are dealt with through separate policy frameworks that do not necessarily align.
- Siloed inter-agency working across enforcement actors, including financial crime authorities. While the maritime domain has traditionally been viewed as the responsibility of national navies, the rise of maritime insecurity from non-traditional challenges such as IUU fishing has necessitated a response comprised of new actors, institutions and policies.
- Limited prioritisation of fisheries, other environmental crimes, international cooperation and limited awareness and information sharing with the private sector, results in low

¹⁷ Ibid. 23.

¹⁸ OECD, 2013, *Evading the Net: Tax Crime in the Fisheries Sector* at: <https://www.oecd.org/ctp/crime/evading-the-net-tax-crime-fisheries-sector.pdf>, accessed 18 September 2023.

¹⁹ Reid, A., et al. (2021), *The Role of Beneficial Ownership in Combating IUU Fishing*, RUSI at: <https://shoc.rusi.org/blog/the-role-of-beneficial-ownership-in-combating-iuu-fishing/>, accessed 18 September 2023.

²⁰ Belhabib, D., Le Billon, P., (2022), *Fish crime in the global oceans*, *Science Advances*, Volume 8 – Issue 12, March 2022 at: <https://www.science.org/doi/10.1126/sciadv.abj1927>, accessed 18 September 2023.

²¹ Ibid.

²² Rivaz, C. et al, note 3.

²³ Ibid. 26.

levels of suspicious activity reporting and less effective due diligence for new and existing clients.

Through RUSI's IUU fishing research, the following Asia-Pacific examples have been identified:

- A 2017 investigation by Malaysian authorities found Vietnamese fishers had bribed Malaysian officials RM50,000–200,000 (£10,000–£38,000) per vessel for permits to fish in the country's eastern seas and a free pass to fish illegally.²⁴
- In 2015, Thai police, working with the Anti-Money Laundering Office of Thailand seized the assets of a company based in Kantang in southwest Thailand involved in IUU fishing and human trafficking.²⁵

Recommendations

The project team has identified that significant challenges exist in using AML/CFT frameworks to combat illicit financial flows generated from illegal fishing across the Asia-Pacific. The APG project team, highlights the following preliminary recommendations noting that this area would benefit from further and in-depth research:

- (1) Jurisdictions need to prioritise identifying ML/TF risks associated with proceeds from illegal fishing, and implement the measures set out in recommendations below in line with ML/TF risks.
- (2) Conduct stakeholder mapping to define clear roles and responsibilities of competent authorities, including those responsible for the conduct of parallel financial investigations, and improve effective sharing of information and intelligence.
- (3) Improve the quantity and quality of STR reporting on illegal fishing to ensure illicit financial flows from illegal fishing can be targeted.
- (4) Jurisdictions should apply and implement financial investigative tools and financial intelligence in investigations involving illegal fishing.
- (5) Access to beneficial ownership information in relation to corporate vehicles should be shared across competent authorities in order to mitigate against criminal actors obfuscating illegal fishing activity.
- (6) Improve international cooperation, intelligence sharing and mutual assistance between competent authorities and their foreign counterparts in order to facilitate investigations.
- (7) Increase and prioritise resources and training to assist law enforcement agencies and the private sector to enhance their understanding of ML/TF risks of illegal fishing.

Completed by:

APG Illegal Fishing Project team
November 2023

²⁴ Ramendran, C. (2017), *MMEA, DoF Officers Arrested Over Bribes for Illegal Fishing Activities*, Sun Daily, 6 November 2017 at: <https://www.thesundaily.my/archive/mmea-dof-officers-arrested-over-bribes-illegal-fishing-activities-BUARCH500461>, accessed 18 September 2023.

²⁵ Environmental Justice Foundation Press Release (2017), *14 Year Jail Sentences for Thai Human Traffickers*, Royal Thai Embassy, Washington D.C. at: <https://thaiembdc.org/2017/03/22/press-release-14-year-jail-sentences-for-thai-human-traffickers/>, accessed 18 October 2023.

Appendices

Appendix A: 2022 APG Yearly Typologies Report, Chapter 1, *illicit financial flows from IUU fishing*

Appendix B: Questionnaire: Illicit financial flows generated from illegal fishing

APPENDIX A

Please see Chapter 1 of the [APG Yearly Typologies Report 2022 – Methods and Trends of Money Laundering and Terrorism Financing](#).

APPENDIX B

ILLICIT FINANCIAL FLOWS GENERATED FROM ILLEGAL FISHING

Completing the Questionnaire

This questionnaire has been developed to collect data and analyse information from relevant jurisdictions to examine the known characteristics of proceeds of crime generated from illegal fishing. The results of the questionnaire will provide an understanding of the application of the ML/TF apparatus, the use of financial intelligence and the execution of financial investigations in disrupting illicit financial proceeds of illegal fishing.

The findings of this questionnaire will result in a typology report on illicit financial flows generated from illegal fishing, ultimately revealing challenges and opportunities in using the ML/TF framework to combat illegal fishing.

APG Members and Observers are asked to return their completed questionnaire by 14 October 2022 to mail@apgml.org

Members are encouraged to include comments and additional informal observations alongside any question to provide further context.

We encourage APG contact points to share this questionnaire with relevant agencies in your jurisdiction.

Confidentiality of information

The APG will not attribute information to contributing agencies or members unless express permission has been provided. All conclusions and analysis will be anonymised. A copy of the first draft of the report will be sent to all contributors for their review and to collect any comments or concerns prior to publication.

Section 1: Money Laundering / Terrorist Financing (ML/TF) Framework

Illegal fishing as a predicate offence

1. Is illegal fishing criminalised in your jurisdiction?
 Yes No
2. Is illegal fishing a predicate offence for money laundering in your jurisdiction?
 Yes No
3. What conduct qualifies as 'illegal fishing' in your jurisdiction?
4. Is your jurisdiction a signatory to global instruments, agreements or treaties on IUU fishing?
 Yes No
5. Is your jurisdiction a signatory to regional instruments on eliminating IUU fishing?
 Yes No
6. Which agencies are responsible for administering legislation related to illegal fishing?
7. Which agencies would you report illegal fishing to?

Risk and threat understanding of illicit financial flows from illegal fishing

8. Has illegal fishing been identified as a specific threat in your ML/TF national risk assessment/assessments?
 Yes No
 - a. If yes, what was its inherent risk rating? (select the closest option)
 Low Medium High
If other, please provide details:
 - b. If possible, please provide us with relevant risk assessment material from your jurisdiction related to illegal fishing.
9. Do agencies in your jurisdiction associate any of the following factors with illegal fishing operations? (click all that apply)
 - Transnational criminal networks
 - Abuse of corporate vehicles (companies, trusts etc)
 - Forced labour / modern slavery
 - Evasion of financial sanctions
 - Fraud on catch certification
 - Breach of fishing permits
 - Involvement of ships with flags of convenience
 - High sea fishing

- Transshipment
- Other, please list

If possible, please provide case studies (in section 5) where you have observed illegal fishing operations with one or more of the above factors.

10. Based on evidence (investigations, prosecutions, case studies, requests for assistance), which jurisdictions are destinations for proceeds of illegal fishing committed in your jurisdiction? (highest risk listed first)

1.
2.
3.
4.
5.

11. Does your jurisdiction require beneficial ownership of corporate vehicles to be recorded in a central registry?
 Yes **No**

Please list data collected by this registry/these registries.

Risk based supervision of illicit financial flows from illegal fishing

12. Is risk of laundering proceeds of illegal fishing a factor in your risk based supervision model?
 Yes **No**

- a. If yes, what was the risk rating? (select closest option)
 Low Medium High

13. In the past five years, have you conducted supervision assessments specifically targeting money laundering of illegal fishing?
 Yes **No**

14. What resources do you use to train your staff on illegal fishing?

- Internal SOPs
- On the job training
- FATF publications
- Egmont publications
- OECD publications
- Typologies reports
- Subject matter experts or organisations
- Other (please describe) _____

15. In what areas do you require further training?

- Identifying illegal fishing risks

- Identifying the money laundering elements of illegal fishing
- Identifying and using available resources
- Information exchange
- Other, please describe _____

Section 2: International Cooperation

16. How hard is it to receive international cooperation when investigating proceeds from illegal fishing related crimes?

- Very easy Easy Hard Very Hard

17. What difficulties does your jurisdiction face when seeking information from foreign jurisdictions in regards to investigations of illegal fishing and related money laundering? (list as many difficulties as applicable)

- a.
- b.
- c.
- d.

18. Has your jurisdiction made requests to other jurisdictions for information in relation to the investigation of illegal fishing or money laundering of proceeds from illegal fishing, under a Mutual Legal Assistance (MLA) treaty, informal diplomatic channel or other similar treaty?

	Yes	No	Unsure
Mutual Legal Assistance (MLA) treaty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diplomatic channel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other international cooperation framework	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19. Is dual criminality an issue in relation to MLA requests for illegal fishing investigations?

- Yes** **No**

If yes, please describe these issues:

20. Does your jurisdiction make informal requests for international cooperation in relation to the investigation of illegal fishing or money laundering of proceeds from illegal fishing?

- Yes** **No**

21. Does your jurisdiction participate in international meetings/forums for addressing illegal fishing (e.g. Regional Fisheries Management Organisations (RFMOs))? If so, please list them.

22. Has your jurisdiction participated in multilateral taskforces or international cooperative arrangements to tackle shared illegal fishing issues? If so, please list them.

23. Which international cooperation frameworks (treaties or international organisations) are useful to your jurisdiction for illegal fishing investigations?

24. Does your jurisdiction contribute (case studies or data) to international reports on emerging trends/ trends associated with illegal fishing?

Yes No

Please list:

25. Does your jurisdiction have contact with or engage with authorities of other nations on any of the following:

	Often	Sometimes	Never
Accuracy of supply chain or catch documentation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on high sea transshipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exchange information on transportation of illegal fish caught in your jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 3: Financial Intelligence

Transaction reporting

26. How often is illegal fishing reported independently or in conjunction with the reporting of other crimes?

	Frequently	Sometimes	Never
Suspicious transaction report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cash transaction report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SWIFT messages, or other reports of international funds transfers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cross-border movement form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

27. Are STRs actively used as a source of intelligence in illegal fishing cases?

Never Rarely Sometimes Often Almost Always

28. Please complete the tables below for disseminations from the Financial Intelligence Unit relating to the laundering of proceeds of illegal fishing:

Year	Domestic		International	
	Number of Spontaneous disseminations	Number of Disseminations upon request	Number of Spontaneous disseminations	Number of Disseminations upon request
2017				
2018				

2019				
2020				
2021				
2022				

29. List any indicators commonly used for identifying suspicions of illegal fishing?

30. How do immigration, customs, and primary industry agencies report suspicions of illegal fishing to other departments?

Intelligence sharing

31. Do taskforces or inter-agency forums for sharing intelligence on illegal fishing exist in your jurisdiction?

Yes No

If yes, which agencies are involved?

32. What challenges can you identify with respect to intelligence sharing and cooperation on illegal fishing?

Private and civil sector engagement

33. Do you consult with the private sector on a case-by-case basis or through recurring standing arrangement in relation to illegal fishing?

	Case-by-case	Standing arrangement
YES	<input type="checkbox"/>	<input type="checkbox"/>
NO	<input type="checkbox"/>	<input type="checkbox"/>

If yes, please provide details

34. Do you consult with civil sector and/or non-government organisations (NGOs) on the issue of illegal fishing?

Yes No

If yes, please provide details:

35. If a catch document is required for fishing products, how does your jurisdiction or customs authority validate it?

36. Does your jurisdiction impose obligations on the private sector to certify legality of fishing products?

Yes No

If yes, please provide details:

Section 4: Investigations of illicit financial flows from illegal fishing

Investigations

37. Which agencies hold investigative powers for illegal fishing matters?
38. Does the agency responsible for money laundering have powers to investigate matters involving illegal fishing?
39. What inter-agency taskforces or forums exist for law enforcement responses to illegal fishing?
40. Please provide any available statistics on investigations of illegal fishing. Please include a breakdown of cases with parallel financial investigations or money laundering investigations.

Year	Number of illegal fishing investigations	Number of parallel financial or associated ML investigations	Number of Prosecutions	Value of assets confiscated
2017				
2018				
2019				
2020				
2021				
2022 (to date)				

Prosecutions

41. Do prosecutors for illegal fishing and money laundering sit within the same agency or office?
 Yes No Not always
42. Please describe the arrangements for prosecution of illegal fishing:
43. Do courts that hear illegal fishing cases have jurisdiction over money laundering offences?
 Yes No

If no, please describe the arrangements:

44. Describe any barriers in your jurisdiction to the prosecution of the laundering of proceeds of illegal fishing?

Confiscation

45. Does your jurisdiction have access (or exercise) to non-conviction based proceeds freezing/seizing/ confiscation for illegal fishing activity?

Yes No

Please describe the arrangements:

46. What are the common challenges faced in your jurisdiction in relation to recovering proceeds of illegal fishing?

Difficulty identifying when crimes are committed

- Crimes being investigated by authorities not familiar with asset recovery principles
- Incomplete, inaccessible or unavailable information regarding beneficial owners of companies (or other legal persons) and trusts (or other legal arrangements)
- Lack of staff with financial investigative expertise
- Inability to exchange information from domestic authorities in a timely manner
- Inability to exchange information from foreign countries in a timely manner
- Insufficient resources (e.g. analytical software, IT equipment)
- Cost of asset management
- Legal barriers to exchanging information
- Insufficient powers in relation to asset seizure or freezing
- Other (please list):

Association with other predicates

47. Which predicates appear commonly in cases involving illegal fishing?
48. What inter-agency mechanisms do relevant agencies use to cooperate on cases involved multiple predicate offences?

Training and capacity

49. What financial analysis and investigation training specific to illegal fishing is available for law enforcement officials responsible for illegal fishing investigations?
50. What financial crime resources are available to investigators of illegal fishing?
51. Which agencies hold financial investigation training specific to illegal fishing?

Section 5: Case Studies

Please provide case studies that are descriptive of the major issues of concern to your jurisdiction regarding illicit proceeds generated from illegal fishing.

It is not necessary that an offence of money laundering has been proven. If the case study is demonstrative of how illicit proceeds of illegal fishing activity are being laundered, please include it here.

There is no limit on the number of case studies a jurisdiction can submit, however when submitting multiple case studies please note which methodologies are of the highest concern.

It is important that case studies focus on the movement of the proceeds of illegal fishing, including movement subsequent to offending. Please provide as much detail as possible in respect of this financial aspect.

1. Case Name, Year/Ongoing, Location, citation (if the case is concluded and published)

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2. Competent Authorities

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3. Relevant offences/legislation used

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4. Red Flags identified

Delete red flags that are not applicable and/or add red flags as necessary.

Alternate Remittance Services

Breach of fishing permits

Commodities involved such as known illegally fished species

Concealment of Beneficial Ownership

Corporate vehicles (e.g. trust, shell companies)

4. Red Flags identified

Crypto-currencies or other digital assets as a laundering mechanism

Domestic taxpayer resident in foreign jurisdiction

Evasion of financial sanctions

False catch documents / certification

False identities

Fishing on the high seas

Flags of convenience

Forced labour / modern slavery

Foreign financial centres

Foreign taxpayer resident in jurisdiction

Hawala

International trade to move value

Large Cash Activity

Purchase of high-value items

Transshipment

Transnational criminal networks

Under or over declaring of items on customs declarations

Under- or over-invoicing

Unusual financial instruments (e.g. bank drafts, bank bills, bearer shares etc) (please describe)

Unwitting third parties

Other:

5. Short summary of the relevant facts of the case, including sufficient background facts to put the case into context

6. Outcomes/Results

7. Chart or Diagram of activity

8. Any other relevant information