PROTECTIONS AGAINST TRAFFICKING IN PERSONS

Information Gathering and Risk Assessment in Seafood Supply Chains

Once an initial mapping is underway, you can begin to assess the relative risk of different segments of your supply chain in your supply chain.

COUNTRY-BASED RISK ASSESSMENT

A first pass at risk evaluation can be conducted on the basis of risks to the country/region of production of each supplier. Have human trafficking and other labor abuses been documented (or are they widely believed to occur) in sourcing country/region? Are abuses concentrated in one area in particular? Specific risk factors for the seafood supply chain based on the country of production may include weak legal protection for civil liberties and workers' rights, widespread corruption, high level of crime and violence, state persecution, weak national economic development, immigration policies limiting the employment options or movement of migrants, lack of (or weak) bilateral agreements with migrant-sending countries, and failure to ratify International Labour Organization (ILO) conventions related to human trafficking or rights of workers and migrants. This information can be gathered from sources including:

- The U.S. Department of State Trafficking in Persons Report: http://www.state.gov/j/tip/rls/tiprpt/
- The U.S. Department of State Human Rights Report: http://www.state.gov/j/drl/rls/hrrpt/
- Quantitative country-based indices such as the Transparency International Corruption Perceptions Index, Fragile State Index, MapleCroft
- Political Risk and the UNDP Human Development List
- International Labour Organization
- Reputable nongovernmental organizations (NGOs) and media reports
- Consultations with stakeholders including NGOs and international organizations

The seafood sector is somewhat unique in that it is not uncommon for supply chains to cross multiple international borders. For example, the laws of the coastal state, the flag state, the fishery state, the port state, the processing plant state, and the aquaculture state may all come into play, and risks should be considered in each of these countries, as relevant. In the port state, for example, it is important to determine which port state measures, agreements, enforcement, and observer programs are in place.

Port State Measures

Fish initially enter global supply chains via ports. If vessels involved with Illegal, Unreported, and Unregulated (IUU) fishing or human rights abuses are denied entry to port, vessels cannot offload their catch, therefore placing a deterrent on those engaging in illegal activities. In 2009, the United Nations Food and Agriculture Organization (FAO) adopted the Port State Measures Agreement (PSMA), which lays out requirements for states that ratify the treaty. The full text of the PMSA can be found at: http://www.fao.org/fileadmin/user_upload/legal/docs/2_037t-e.pdf

These requirements include identifying ports open to foreign-flagged vessels; inspecting vessels in port; blocking vessels identified as participating in IUU fishing; and sharing information with cooperating governments. States that have not ratified the treaty should be considered higher risk for IUU fishing and human rights abuses. However, even where port states have not ratified the treaty, companies can assess whether port states are implementing measures protective against IUU such as catch documentation requirements, inspections and regulations around the use of transshipment. An assessment of these practices can be conducted through a risk assessment and monitoring program that includes desk research, interviews with key stakeholders, port visits, and worker interviews

It is important to note that while port state measures are important to controlling human rights abuses associated with IUU from a systemic standpoint, they do not, in and of themselves, remediate labor abuses. Further, port state controls may have implications for work conditions. For example, if worker pay is dependent on a share of the catch, workers on a vessel that is unable to offload catch caught illegally because of IUU fishing may suffer financially. This points to the centrality of gathering worker feedback in evaluating the range of social risk in a given fishery.

Country Supplying the Labor

If a sector is dependent on migrant workers, or a source country has a high percentage of migrant workers in its population, indicators from the sending country should also be examined. These indicators may include political instability or conflict, high level of crime and violence, widespread poverty, widespread landlessness and dispossession, promotion of emigration/remittance economy, lack of (or weak) bilateral agreements governing treatment of emigrant workers, and failure to ratify ILO conventions related to forced labor or rights of migrant workers.

SUPPLY CHAIN BASED RISK ASSESSMENT

Additional risks may be inherent in certain sectors or products (types of products and industries involved, typical sourcing patterns, types of labor involved in production or supply of the product, and the nature of the workforce in question) and should be examined.

In general, labor in the fishing sector should be considered high-risk for labor abuse because of the nature of the work. It is important, however, to analyze risk related to a specific worksite, or tier of the supply chain as the needs of workers will differ. Although there is overlap, there are distinct risks facing workers on board vessels versus workers in processing plants. Similarly, workers employed on large-scale commercial vessels face different risks than workers on small-scale local vessels. Considering each tier's or worksite's specific conditions can help to make a more effective analysis.

Any documented incidences of human trafficking or serious labor abuses in country-specific supply chains should be noted. At the vessel level, beyond documented cases of human trafficking and other labor abuses, countries should consider documented instances of IUU fishing. For some products, limited information on the seafood supply chain will be available. In those cases, inferences can be drawn from risks facing workers in related sectors. For example, if no information is available on risks facing workers in seafood processing plants, it could be helpful to examine documented cases of abuse in the manufacturing sector more broadly. Similarly, information on risk to workers in agriculture can serve as a proxy for risk to workers in aquaculture. Information on documented incidences of human trafficking and other serious labor abuse can be found in:

- U.S. Department of State Trafficking in Persons Report
- U.S. Department of State Department of Labor List of Goods Made with Child Labor and Forced Labor
- The U.S. Department of Labor Executive Order 13126 List of Products Produced by Forced or Indentured Child Labor
- International Labour Organization
- Reputable nongovernmental organizations (NGOs) and media reports
- Consultations with stakeholders including NGOs and international organizations

SUPPLIER BASED RISK ASSESSMENT

After a review of risk based on country (both production and labor supply) and risk tied to specific supply chain factors, information gathered from suppliers via Self-Assessment Questionnaires, document review and other supply chain mapping exercises can point to potential red flags for further investigation. The company is likely to find unique red flags at each tier. Because wild-capture vessels present unique challenges, examples of potential red flags are provided below:

WILD-CAPTURE SUPPLIER POTENTIAL RED FLAG	EXPLANATION
Vessel or vessel owner has previous IUU citation	Vessels or vessel owners with previous IUU citations are at risk of continued illegal or unethical behavior.
Flag state of vessel is known as a Flag of Convenience	Vessels operating under Flags of Convenience operate under weaker legal regulation and enforcement mechanisms. Companies should note where flag states lack a meaningful connection to fishing operations, as well as collect details on flag state oversight requirements such as licensing processes and any monitoring conducted by the flag state.
Longer voyage length	When vessels remain at sea for longer periods of time, workers are more highly isolated and have fewer opportunities to escape abusive situations or to communicate with potential support mechanisms.

Use of transshipment at sea	Transshipment at sea allow for mixing of product from multiple sources, obscuring supply chain visibility. Further, the use of transshipment allows vessels to stay at sea for longer periods of time before visits to port. In an advisory note on identifying IUU fishing in supply chains, the Environmental Justice Foundation recommends gathering the following information on use of transshipments in supply chains: • list of vessels involved; • logistical details of transshipments; • information on observer program, including number of inspections, percentage conducted at random; and • independent observer report.
Supplier lacks information about fleet vessels, fleet size and capacity and use of transshipment at sea (see above); OR information about capacity and other fleet specifications does not align with actual production.	If suppliers are unable to provide verifiably accurate information about their fleet vessels, fleet size and fleet capacity, it is possible that product from other sources is entering their supply chains. Without visibility into source vessels, holding those vessels accountable for social expectations is impossible.
New product/New supplier	At any point in the supply chain (whether vessels at sea, processing plants or aquaculture farms on land), the procurement of a new product or initiation of a new supplier relationship is an opportunity to assess risk.

Flag State and Flags of Convenience

To operate legally, fishing vessels must register with a flag state. Some states allow foreign vessels to register, so the flag state does not necessarily correspond with vessel ownership, port of departure, or other control measures. A vessel flies the flag of the state in which they are registered, and operates under the laws of that state. Many vessel owners consider it advantageous to register in states with weaker regulations and enforcement mechanisms. When vessel owners register in states outside of the state of ownership or other control, this is generally referred to as a "Flag of Convenience." In addition to lax regulation and enforcement mechanisms, Flags of Convenience may offer lower tax and fee rates as well as quick registration. There is no legally binding definition of which states represent Flags of Convenience, but generally a country with a high number of foreign owned vessels registered that lack legitimate business connections to the country and/or countries with highly simplified open registration systems

operated by private companies should be considered risky. For more information, please see:

Environmental Justice Foundation. Lowering the Flag: Ending the Use of Flags of Convenience. 2009. http://ejfoundation.org/sites/default/files/public/Lowering%20the%20flag.pdf

Environmental Justice Foundation. An Advisory Note for the UK Supply Chain on How to Avoid Illegal, Unreported and Unregulated (IUU) Fishery Products. 2015. http://ejfoundation.org/sites/default/files/public/EJF-Advisory-Note-low-res-final.pdf

Australian Department of Agriculture, Fisheries and Forestry; International Transport Workers' Federation; and WWF International. Gianni, M. and Simpson, W. The Changing Nature of High Seas Fishing: How flags of convenience provide cover for illegal, unreported and unregulated fishing. 2005. http://www.wwf.org.uk/filelibrary/pdf/flagsofconvenience.pdf