

## 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 PSMA can be found at: [http://www.fao.org/fileadmin/user\\_upload/legal/docs/2\\_037t-e.pdf](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 using minimum standards for inspection and inspector training;<sup>1</sup> 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*

*Pew Charitable Trusts has developed comprehensive guidance on compliance with PSMA, available at: [http://www.pewtrusts.org/~media/assets/2017/04/capacity\\_needs\\_assessment.pdf](http://www.pewtrusts.org/~media/assets/2017/04/capacity_needs_assessment.pdf).*

*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.*

### 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.*

<sup>1</sup> Packard Foundation. *Driving Ecological Sustainability in Fisheries by Integrating Human Rights Issues*. February 2017. <https://www.packard.org/wp-content/uploads/2017/03/Driving-Ecological-Sustainability-in-Fisheries-by-Integrating-Human-Rights-Issues-WWL.pdf>.

Fish Wise. *Status of IUU Nations Carded by European Commission*. October 23, 2017. <https://www.fishwise.org/2017/10/23/status-of-iuu-nations-carded-by-european-commission/>.

*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>

### 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 migrant 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/or proxy indicators such as information on IUU fishing 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
- European Commission “Yellow and Red Cards” <sup>2</sup>
- International Labour Organization
- Reputable nongovernmental organizations (NGOs) and media reports
- Consultations with stakeholders including NGOs and international organizations
- Third-party risk assessment sources for risk screening in a particular fishery, including:
  - Seafood Slavery Risk Tool (Monterey Bay Aquarium, Sustainable Fisheries Partnership and Liberty Asia) <http://www.seafoodslaveryrisk.org>  
 The Seafood Slavery Risk tool is a free, publicly available tool that evaluates a selected number of fisheries based on indicators including:
    - ✓ Instances of trafficking documented in fishery by authoritative sources as well as documented trafficking in adjacent national sectors such as agriculture; and
    - ✓ Country-level risk including Department of State Trafficking in Persons Report Tier Ranking, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) Ratification, Core ILO Convention Ratification, Port State Measures Agreement Ratification, status with European Commission on IUU, national legislations addressing human trafficking.
  - Labor Safe Screen (Sustainability Incubator) <http://www.laborsafescreen.com/>

## 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

<sup>2</sup> European Commission. *Fisheries*. [https://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/](https://ec.europa.eu/fisheries/cfp/illegal_fishing/info/).

red flags at each tier. Because wild-capture vessels present unique challenges, examples of potential red flags are provided below:<sup>3</sup>

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	<p>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:</p> <ul style="list-style-type: none"> <li>• list of vessels involved;</li> <li>• logistical details of transshipments;</li> <li>• information on observer program, including number of inspections, percentage conducted at random;</li> <li>• independent observer report.</li> </ul>

<sup>3</sup> Partially adapted from 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>.

<p>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.</p>	<p>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.</p>
<p>New product/New supplier</p>	<p>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.</p>

**CONDUCTING PRELIMINARY RISK ASSESSMENTS IN FISHERY IMPROVEMENT PROJECTS (FIP)**

A FIP is a multi-stakeholder effort aimed at improving fishery sustainability through market-incentives.<sup>4</sup> Fisheries with active FIPs are eligible. There are no internationally standardized definitions of FIPs, although some stakeholders use the language of “credible” vs. “non-credible FIPs.”<sup>5</sup> The term “comprehensive FIP” is sometimes used to denote a FIP moving towards Marine Stewardship Council (MSC) certification while a “basic FIP” may not be targeted at MSC certification.<sup>6</sup> The Marine Stewardship Council defines a “credible FIP” as being characterized by an initial gap analysis, an action plan with budgets, timelines, roles and activities linked to performance indicators, regular reporting against the action plan, verification of process, pre-determined time limit to time spent as FIP (before seeking certification) and commitment to enter certification process.<sup>7</sup>

FIPs have been nearly exclusively focused on aspects of environmental sustainability. However, there is an opportunity for stakeholders operating FIPs to take preliminary steps at understanding and reporting on potential

<sup>4</sup> Marine Stewardship Council. *Fishery Improvement Projects (FIPs)*. [https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip\\_](https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip_)  
 Conservation Alliance for Seafood Solutions. *Guidelines for Supporting Fishery Improvement Projects*. [http://solutionsforseafood.org/wp-content/uploads/2015/03/Alliance-FIP-Guidelines-3.7.15.pdf\\_](http://solutionsforseafood.org/wp-content/uploads/2015/03/Alliance-FIP-Guidelines-3.7.15.pdf_)  
 World Wildlife Fund. *Fisheries in Transition*. Smart Fishing Initiative. November 2014. [http://assets.panda.org/downloads/fisheries\\_in\\_transition\\_nov2014\\_.pdf\\_](http://assets.panda.org/downloads/fisheries_in_transition_nov2014_.pdf_)  
 Ocean Outcomes. *Fishery Improvement Projects*. <http://www.oceanoutcomes.org/what-we-do/fishery-improvement-projects/>  
<sup>5</sup> Marine Stewardship Council. *Fishery Improvement Projects (FIPs)*. [https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip\\_](https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip_)  
<sup>6</sup> North Atlantic. *Fishery Improvement Projects (FIPs) explained*. <http://northatlanticseafood.com/fishery-improvement-projects-fips-explained/>  
<sup>7</sup> Marine Stewardship Council. *Fishery Improvement Projects (FIPs)*. [https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip\\_](https://www.msc.org/documents/developing-world/msc-accessibility-tools/definition-of-a-credible-fip_)

labor issues – including human trafficking – that may be present in a given fishery. In addition to the information noted in the supplier basic risk assessment above, gathering the following relatively straightforward pieces of information may enable FIP partners to better assess the risk of trafficking in a given fishery and understand potential root causes.

INFORMATION	RED FLAG
Type of fishing activity/Gear Used	The nature of the most prevalent types of fishing activity in a fishery can have direct implications for labor rights risk. It is likely already included in FIP pre-assessment documentation and thus should not constitute an additional information gathering burden. <sup>8</sup> For example, is the predominant type of wild-capture in a fishery performed in the distant ocean or close to shore? If it is in the distant ocean, as noted above, workers may have decreased access to shore and experience greater isolation. Other variables may be the labor intensity of fishing activity (as a proxy for scale of people engaged) and skill level required for fishing activity. Where fishing activity does not require specialized skills and is particularly undesirable, it may be more likely to be performed by individuals with a high level of vulnerability, including immigrants, minorities, and other socially marginalized groups.
Scale of fishing activity	Both large commercial and small artisanal fisheries may have risks of trafficking, but the issues in play are likely to be different. For example, large commercial vessels may be more likely to stay at sea for longer periods. These workers may be engaged by third party labor brokers. In smaller operations, complex social relationships may govern the relationships between captain and crew and in some cases, can contribute to exploitation.
Population involved in labor throughout supply chain	Certain populations tend to experience high vulnerability to human trafficking and other human rights abuses. These populations include migrant workers, indigenous people, children, and women.

<sup>8</sup> See MSC Pre-Assessment Tool, section 3.2. <https://www.msc.org/about-us/credibility/all-fisheries/fisheries-improving-towards-msc-certification/fishery-improvement-tools>.

Use of transshipment at sea

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- list of vessels involved;
- logistical details of transshipments;
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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.

- Supplier self-assessments/self-reporting
- Supplier interviews
- Supplier site visits/audits (documents, records)
- Receipts, purchase orders, landing certificates