

ELIMINATING GOVERNMENT SUPPORT TO ILLEGAL, UNREPORTED AND UNREGULATED FISHING

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Eliminating Government Support to Illegal, Unreported and Unregulated Fishing

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This report assesses how to stop illegal, unreported and unregulated (IUU) fishing benefitting from government support. Based on a survey of OECD countries and partner economies participating in the work of the OECD Fisheries Committee, it recommends actions that can be undertaken by countries to maximise the chances of excluding individuals and companies with links to IUU fishing from government support, and to minimise the risk that such support benefits IUU fishing *ex ante*, given the inherent difficulty to take action *ex post*. Eight specific recommendations are presented.

Key words Subsidy; Fisheries; IUU; Ocean; Marine resources

JEL codes Q22, Q27, Q28, H25

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Executive Summary

Illegal, unreported and unregulated (IUU) fishing and fishing-related activities in support of IUU fishing continue to seriously undermine and threaten the sustainability of fisheries, the livelihoods of coastal communities and the ocean economy. Largely unseen, IUU fishing complicates the stock assessments that underpin evidence-based fisheries management, while causing law-abiding fishers to face unfair competition over resources and in markets. Furthermore, IUU fishing results in losses of important tax revenue. IUU fishing can also threaten food security, for example by diverting fish away from local markets in regions and communities that depend on local seafood and may pose food safety risks due to the mislabelling of illegal products. It is also sometimes associated with conflicts over scarce resources and disputed waters; transnational criminal activities; and the exploitation of forced labour. Whilst the negative effects of IUU fishing are well understood, it is nevertheless the case that IUU fishing can benefit from government support for fisheries. This report assesses how to avoid this.

Improving management as well as monitoring, control, and surveillance (MCS), sanctioning IUU fishing activities and reducing the expected net benefits of IUU fishing more generally are key to its eradication. Preventing support from government budgets inadvertently benefitting IUU fishing is another important lever to reduce its profitability. For this reason, eliminating support to IUU fishing has been the subject of a number of international commitments on domestic and international reforms, including in Sustainable Development Goal (SDG) 14, which includes a call for “eliminat[ing] subsidies that contribute to IUU fishing and refrain[ing] from introducing new such subsidies” (Target 14.6). The goal for achieving SDG Target 14.6 was 2020. Negotiations at the World Trade Organization (WTO) to phase out subsidies that contribute to IUU fishing, as well as subsidies to unsustainable fishing more generally, are ongoing. Nevertheless, countries are addressing such subsidies through reforms of their domestic law and regulations. Disciplines have also been included in recent trade agreements.

This report considers how to avoid supporting IUU fishing in a broad sense, without limiting the concept of IUU fishing to one particular definition. The report reviews how OECD Members and Partner economies engaging in the OECD Fisheries Committee (COFI) can ensure that government support that they may provide to fisheries does not contribute to IUU fishing, on the basis of a survey conducted in 2021, and suggests avenues to more effectively close public budgets to IUU fishing.

Legal and regulatory systems, as well as fisheries support, vary significantly globally. As a result, ways of excluding IUU fishing from government support also vary. Three main approaches were seen from the review. Some economies use specific mechanisms to deny or withdraw support in relation to IUU fishing, which are set in overarching legislation and regulation. Others use specific mechanisms that are set in individual support programmes’ agreements or contracts. And others rely on the withdrawal of fishing authorisations, which, combined with the need for an authorisation to be eligible for support, may, implicitly, suspend support eligibility.

Several challenges are common to the three approaches. First, by nature, IUU fishing is hard to observe and document. Establishing links between IUU fishing activities – most often identified in relation to a vessel – and the individuals and companies that benefit from these activities and from public support can be even more difficult.

Second, delineating what actions should trigger the denial, withholding, or withdrawal of support is complicated. IUU fishing, as described in the International Plan of Action against IUU Fishing (IPOA-IUU) of the Food and Agriculture Organization of the United Nations (FAO), covers a range of different fishing activities and contexts, including industrial vessels fishing illegally in the waters of a foreign country, or fishing in the high seas by a vessel without nationality; but also small-scale fishers failing to diligently report their catch; use of prohibited gear; or fishing in excess of a quota in the coastal areas of the fisher’s own country. The sustainability and socio-economic implications of excluding such different types of activities from support, and the opportunity cost of doing so, vary accordingly.

At the same time, a range of fishing activities that a common-sense interpretation would consider ‘unregulated’, ‘unreported’ or ‘insufficiently regulated’ may not be covered by the IPOA-IUU description. This can be the case, for example, of fishing on the high seas concerning species or areas outside the

competence of any Regional Fisheries Management Organisation or Arrangement (RFMO/A), which is not co-operatively regulated in a way that would allow for the sustainable management of the resources.

Furthermore, fishing-related activities, such as transshipment – whereby fish are transferred from fishing boats onto larger refrigerated vessels, which then carry the fish to port – and the provisioning of personnel, fuel and other supplies at sea, are generally less subject to legislation and regulation and harder to monitor and sanction than the fishing activity itself, and thus can play a central role in IUU fishing.

Finally, some types of government support to fisheries are made available to the sector as a whole or to all in the sector. This is often the case of public investment in infrastructure or of tax exemptions for example. Excluding particular individuals, companies and vessels from associated benefits may prove more challenging in such cases.

Key recommendations

Notwithstanding these challenges, this report finds that a range of actions are being and can be taken by governments to cut support to IUU fishing, through both specific and implicit mechanisms. Based on these findings, the report recommends actions that can be undertaken by countries to not only maximise the chances that individuals and companies with links to IUU fishing are excluded from government support. Key recommendations include:

1. Make all support conditional on the vessel being flagged to the supporting country and having fishing authorisation. In addition to conditions that are typically included in authorisations processes, such as position transmission through vessel monitoring systems or reporting of catch, where appropriate, the authorisations should require (i) unique vessel identifiers, such as an International Maritime Organisation (IMO) number, where appropriate; and (ii) detailed information on vessel beneficial owners.
2. Make use of appropriate processes to effectively exclude from all types of support all potential recipients linked to IUU fishing (understood in a broad sense) by:
 - a) Being transparent about the consequences of IUU fishing before support is given and the use of support-related enforcement actions.
 - b) Ensuring proportionality of government action by giving due consideration to the nature of the IUU fishing activity, and the context in which it happened.
 - c) Delineating who is concerned; for how long; and whether past support needs to be recovered.
 - d) Without necessarily tying action on support to other IUU-enforcement action (such as processes related to IUU vessel-listing).
3. Adopt a definition of IUU fishing and fishing-related activities, under national legislation, with the objective of cutting support to those engaging in these activities, including when they happen outside the jurisdiction of the supporting country. The IPOA-IUU description is the most commonly used reference for defining IUU fishing in national legislation, and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) for defining fishing-related activities. A national definition may be helpful when co-operating internationally on IUU fishing.
4. Better regulate and monitor the transshipment of fish and other fisheries-related activities such as at-sea vessel supplying, including with authorisation and reporting obligations.
5. Enhance monitoring of fishing and fishing-related activities to better detect and enforce against IUU fishing; implement fully the key provisions of the PSMA and, where possible, become a party to the Agreement. Denying use of ports to those suspected of or involved in IUU fishing and IUU fishing-related activities (except for purposes of inspection or in situations of force majeure) will also directly cut access to associated infrastructure and services supported by governments.

6. Improve information-sharing within and between government agencies, countries and RFMO/As; increase transparency on the processes in place to cut support to IUU fishing and their implementation and, where compatible with privacy legislation, on the recipients of fisheries support, including non-specific support and support to fishing-related activities.

Given the inherent difficulty of excluding individuals and companies with links to IUU fishing from government support, the report also recommends actions that can minimise the risk of government support benefitting IUU fishing. Key recommendations include:

7. Reduce or redirect support away from policies that have the most potential to increase fishing effort and capacity and consequently drive higher levels of IUU fishing. This is notably the case of support that reduces the costs of vessels and fuel.
8. Explicitly exclude from support fishing on the high seas that occurs outside the jurisdiction of an RFMO/A that is not co-operatively regulated in a way that would allow for evidence-based sustainable management of resources.

1. A global priority

1.1. Fighting IUU fishing and making good use of government resources

Illegal, unreported and unregulated (IUU) fishing and associated IUU fishing-related activities (i.e. operations in support of, or in preparation for, IUU fishing that happen in ports or at sea) continue to seriously undermine and threaten fisheries, coastal communities and the sustainability of the ocean economy (Box 1.1).

Even in the best managed fisheries, curbing and deterring IUU fishing activities is difficult and expensive, and, where management and enforcement capacity are limited, the issues are even greater. Fundamentally, IUU fishing exists because it is profitable, and will remain as long as expected revenues exceed expected costs (OECD, 2005^[11]). Lowering the expected net benefits from IUU fishing is thus key to continued progress (Widjaja et al., 2019^[2]). Avoiding support from government budgets going to IUU fishing is an important lever to reduce its profitability, especially in fisheries that are highly dependent on support.¹

Box 1.1. IUU fishing is a major threat to fishers and the Ocean

Damaging techniques, the targeting of endangered species and the overexploitation of fish stocks all harm marine ecosystems, deplete resources and result in economic losses (Agnew et al., 2009^[3]; World Bank, 2016^[4]). Largely unseen, IUU fishing adds to these problems by complicating the stock assessments that underpin evidence-based fisheries management (Österblom, 2014^[5]). Law-abiding fishers face unfair competition over resources and in markets, and governments lose important tax revenue (Galaz et al., 2018^[6]). IUU fishing further threatens food security by diverting fish away from local markets in regions and communities that depend on local seafood (Costello et al., 2020^[7]) and poses food safety risks when illegal products are mislabelled (Reilly, 2018^[8]). IUU fishing endangers fishers by exacerbating conflicts over scarce resources and disputed waters in some parts of the world (Spijkers et al., 2019^[9]; Widjaja et al., 2019^[2]) and, potentially, as part of transnational criminal activities, drug or weapon smuggling, corruption and tax evasion (Witbooi et al., 2020^[10]; UNODC, 2011^[11]; Urbina, 2019^[12]; Tickler et al., 2018^[13]; Telesetsky, 2014^[14]; Sumaila and Bawumia, 2014^[15]; Poling and Cronin, 2017^[16]). Further, IUU fishing can also be associated with the exploitation of forced labour (ILO, 2016^[17]).

Because of multiple impacts and lack of evidence, it is very difficult to estimate the cost of IUU fishing to the global economy. Overall, Agnew et al. (2009^[3]) estimated that illegal and unreported fishing cost the global economy as much as USD 23.5 billion annually, excluding the cost of unregulated fishing and other related economic losses. More recently, Sumaila et al. (2020^[18]) estimated that, globally, 8-14 million tonnes of unreported catches enter trade, every year, generating gross revenues of USD 9-17 billion. Further, they estimated annual losses throughout the economy of USD 26-50 billion, and lost tax revenues of USD 2-4 billion.

Because IUU fishing activities do not respect national boundaries, eradicating IUU fishing requires closing fishing areas and markets to IUU fishing operators and the products of IUU fishing. Action to curb IUU fishing has been reinforced in recent years: nations have made increasing use of port State measures, adopted more comprehensive registration and authorisation processes and increased the use of digital technologies to monitor fishing (OECD, 2020^[19]). International and multilateral co-operation to combat IUU fishing has also been reinforced, particularly through RFMO/As (Box 2.1).

¹ Other means to reduce the expected profitability of IUU fishing include, for example, improving monitoring technologies (for instance through the use of vessel monitoring systems or on-board cameras), increasing seafood traceability to better distinguish legal and illegal products and closing markets to the latter (for instance through the use of catch documentation schemes), or increasing economic punishment for IUU fishing.

Moreover, government support flowing to illegitimate activities is a bad use of public funds, which can hinder the attainment of domestic policy goals, such as enhancing fisher welfare or sustainability. This is particularly important given the limited resources available to governments to prevent IUU fishing, especially in the light of the COVID-19 pandemic. Supporting IUU fishing also undermines the credibility of the sector and ultimately threatens fishers' social licence to operate; while, for governments, it can pose challenges when implementing reforms and enforcing existing rules, by damaging the relationship between stakeholders and relevant authorities.

1.2. Eliminating support to IUU fishing in a broad sense

The multi-faceted nature of IUU fishing poses a number of challenges to governments looking to exclude it from support. Eliminating support to IUU fishing and fishing-related activities presents genuine challenges for governments as the sustainability and socio-economic implications of sanctioning (and excluding from support) different types of IUU fishing activities, and the opportunity cost of doing so, vary and sometimes remains unclear.²

The International Plan of Action against IUU Fishing (IPOA-IUU) of the Food and Agriculture Organization of the United Nations (FAO) describes IUU fishing as covering a wide range of different fishing activities and contexts, including industrial vessels fishing illegally in the waters of a foreign country, or fishing in the high seas by a vessel without nationality; but also small-scale fishers failing to diligently report their catch; use of prohibited gear; or fishing in excess of a quota in the coastal areas of the fisher's own country. IUU fishing is thus a broad concept that includes activities which vary in terms of their impacts on the sustainability of fisheries and the resources they rely upon.

At the same time, a range of fishing activities that a common-sense interpretation of IUU fishing would consider 'unregulated', 'unreported' or 'insufficiently regulated' may not be covered by the IPOA-IUU description.³ This can be the case, for example, of fishing on the high seas that concerns species or areas outside the competence of any RFMO/A that is not co-operatively regulated in a way that would allow for evidence-based sustainable management of the resources. It is also the case of fishing-related activities – which are central to IUU fishing.

Taking the perspective that all these types of IUU fishing and fishing-related activities can be unsustainable, and with the objective of directing government support away from unsustainable activities, this paper considers how to avoid supporting IUU fishing understood in a broad sense, which may go beyond the IPOA-IUU description and the definitions of IUU fishing adopted in the domestic legislation of some economies. Doing so, this paper considers and recommends a range of possible actions to exclude IUU fishing from support, with options that are compatible with different contexts.

² In some cases, removing support may be considered undesirable given the important role small scale fisheries play in food security and livelihoods for vulnerable coastal populations in areas where social safety nets are weak. The socio-economic impacts of removing or repurposing support in such cases would need to be carefully considered, to avoid unintended negative consequences.

³ For Norway the concept of IUU fishing applies to the international law and policy framework that seeks to promote flag State compliance with their international obligations to exercise due diligence to ensure responsible and compliant distant water fisheries. As the terminology of IUU fishing is built into different international law and policy instruments, it may lead to fragmentation and cause legal uncertainty if the terminology of "IUU fishing" is provided different definitions in international and national legal frameworks.

1.3. The global reform agenda

The international community has recognised the need to eliminate support to IUU fishing and made it a priority for action for over two decades. The FAO voluntary IPOA-IUU called on countries to avoid support to IUU fishing in 2001.⁴ This objective was then included in the 2002 *Report of the World Summit on Sustainable Development* and, later, became Target 14.6 of the Sustainable Development Goal (SDG) 14 of the United Nations' (UN) *2030 Agenda for Sustainable Development*,⁵ which also charges the World Trade Organization (WTO) with establishing multilateral disciplines on *inter alia* support that benefits IUU fishing. This is an area of focus for on-going WTO negotiations on fisheries subsidies.

Progress on cutting support to IUU fishing has been slow. At the end of 2020, the deadline for reaching SDG Target 14.6, over 40% of the economies covered in the *OECD Review of Fisheries* reported not having or not implementing fully domestic restrictions on support for operators determined to have engaged in IUU fishing (OECD, 2020_[19]).⁶

However, there has been some progress. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP); the United States-Mexico-Canada Agreement (USMCA); and the recently-concluded trade agreements between the United Kingdom of Great Britain and Northern Ireland and New Zealand (UK-NZ TA) and Australia (UK-AUS TA) contain provisions to prohibit subsidies to IUU fishing (Box 1.2). According to some parties, these disciplines, and the associated reporting requirement, have already facilitated the design and adoption of domestic legislation and regulation to prevent supporting IUU fishing.

At the multilateral level, the [Agreement on Fisheries Subsidies Draft Text](#), issued on 24 November 2021 as a basis for fisheries subsidies negotiations at the WTO, provides that “no Member shall grant or maintain any subsidy to a vessel or operator engaged in IUU fishing or fishing related activities in support of IUU fishing” (Article 3.1).⁷ It further includes a series of provisions specifying the applicability and implementation of the former.⁸ At the national level, some countries are in the process of revising their domestic legislation and regulation.

⁴ Paragraph 23 titled “Economic Incentives” reads: “States should, to the extent possible in their national law, avoid conferring economic support, including subsidies, to companies, vessels or persons that are involved in IUU fishing.”

⁵ The 2002 *Report of the World Summit on Sustainable Development* referred to “eliminat[ing] subsidies that contribute to IUU fishing and to over-capacity, while completing the efforts undertaken at WTO to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries.” The UN *2030 Agenda for Sustainable Development* Target 14.6 called for “by 2020, eliminat[ing] subsidies that contribute to IUU fishing and refrain[ing] from introducing new such subsidies”.

⁶ Among the economies where there was no legislation or regulation in place, some reported they did not need it as they did not directly support fishers. They represented 9% of surveyed economies.

⁷ The text includes the following footnote: For the purpose of Article 3, the term “operator” means the operator within the meaning of Article 2(e) at the time of the IUU fishing infraction. For greater certainty, the prohibition on granting or maintaining subsidies to operators engaged in IUU fishing applies to subsidies provided to fishing and fishing related activities at sea.

⁸ The text in particular includes provisions on the need to have processes in place to avoid supporting IUU fishing in Article 3.7: “Each Member shall have laws, regulations and/or administrative procedures in place to ensure that subsidies referred to in Article 3.1, including such subsidies existing at the entry into force of this Agreement, are not granted or maintained.”

Box 1.2. Disciplines on fisheries subsidies to IUU fishing in trade agreements

The CPTPP, USMCA, UK-AUS and UK-NZ TA include disciplines on fisheries subsidies, which are complementary to commitments to implement a science-based sustainable fisheries management. All the agreements forbid subsidies for fishing that can negatively affect fish stocks in an overfished condition and subsidies to fishing vessels listed for IUU fishing by the flag State or a relevant RFMO/A. In addition, fishing vessels in these trade agreements are defined as also including vessels undertaking fisheries-related activities.

The USMCA builds on the provisions of the CPTPP in several ways. Firstly, the USMCA prohibits the parties from subsidising both vessels and vessel operators on the basis of IUU listing by the flag State, a relevant RFMO/A, but also *the subsidising party*. Secondly, the USMCA includes a provision for notifications of vessels and operators that have been identified as engaging in IUU fishing.

The NZ-UK TA provisions are even more detailed. In addition to forbidding subsidies to any fishing vessel or operator while listed for IUU fishing by relevant States; relevant RFMO/A; the subsidising party; or the FAO, it also forbids subsidies provided “to any vessel or operator that has been found to have committed a serious violation of conservation or management measures within the preceding 12 months”; the “subsidies provided to fishing for fish stocks managed by a RFMO/A where the subsidising party or vessel flag State is not a member or cooperating non-member of the Organisation or Arrangement”; as well as “subsidies provided to fishing or fishing-related activities conducted without the permission of the flag State where required and, if operating in another State’s waters, without permission of that State.”

More broadly, the European Free Trade Association (EFTA) model FTA provisions on Trade and Sustainable Development include an Article on Trade and Sustainable Management of Fisheries and Aquaculture. Accordingly, for example, the Comprehensive Economic Partnership Agreement (CEPA) between Ecuador and EFTA States provides that parties should continue to engage in negotiation to eliminate subsidies that contribute to IUU fishing.

1.4. Objectives of this report

This report aims to contribute to these efforts to curb government support to IUU fishing. It takes stock of how OECD Members and Partner countries and economies participating in the OECD Fisheries Committee (COFI) are directing government support away from IUU fishing and suggests avenues to more effectively close public budgets to IUU fishing. It builds on the results of a survey that investigated the mechanisms governments use to deny, withhold, withdraw and recover support because of IUU fishing.⁹ For the purpose of this paper, government support is understood to include both direct payments and tax exemptions that benefit individuals and companies, as well as support to the sector more generally such as in the form of subsidised access to infrastructure. It is also understood, to comprise support to fishing-related activities as well as non-specific support that benefits fisheries, that is, support that is available to fisheries as well as other sectors.

The report starts by identifying the main approaches taken to restricting eligibility to support (*ex ante*) and withholding, withdrawing and recovering support (*ex post*) in relation with links to IUU fishing (Section 2.1). It then discusses the key role played by registration and licensing processes, combined with eligibility criteria (Section 2.2). It explores why specific mechanisms to cut support to IUU fishing can be necessary, and the features that make them effective (Section 2.3) and why clear definitions of IUU fishing and IUU fishing-related activities are essential (Section 2.4). In Section 3, the report discusses the challenges of identifying IUU fishing and linking it to support beneficiaries, the potential of better monitoring, control and

⁹ The survey was conducted in spring 2021. Responses were received from 31 economies – Argentina, Australia, Belgium, Brazil, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, Denmark, Estonia, France, Germany, Greece, Iceland, Italy, Japan, Korea, Latvia, Mexico, the Netherlands, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Thailand, Turkey, the United Kingdom, the United States – as well as from the European Commission.

surveillance (Section 3.1) and that of information sharing and transparency (Section 3.2). Section 4 explores how general reforms to government support can depressurise the system and reduce the risk of it encouraging or benefitting IUU fishing. Finally, the survey questions used to gather information for this report are included as Annex 1, for potential use by other countries and economies, who may wish to assess their own processes for eliminating support to IUU fishing.

This report was prepared as a background document for the Ministry for Primary Industries of New Zealand, in the context of New Zealand's APEC Presidency. It draws on previous work commissioned by New Zealand on these issues: [Stock Take of APEC Economies' Existing Measures on Withdrawal of Subsidies in Cases Where There Has Been a Determination of IUU Fishing](#) (IISD, 2020_[20]).

2. Tools for eliminating support to IUU fishing

2.1. Approaches to eliminating support to IUU fishing in different contexts

The varied nature of fishing around the world makes closing public budgets to IUU fishing is a genuinely complex objective. The way fishing activities are regulated and governed, and more generally the nature of legal and regulatory systems in place all vary significantly globally, and this affects what measures are needed and appropriate to avoid supporting IUU fishing. The information collected through the OECD survey suggests that the approaches taken by surveyed economies to exclude IUU fishing from support vary across a number of dimensions. Broadly, three types of approaches were identified.

The most direct approach consists of using specific mechanisms set in overarching legislation and regulation to deny or withdraw support in relation to IUU fishing. These processes typically imply a set of eligibility criteria, which are verified when applying for support. In a number of economies, they include a requirement for a written declaration from the recipients that they have not committed infringements of domestic fisheries regulations and are not linked to IUU fishing activities.¹⁰ These requirements are typically complemented by legal provisions for withholding, withdrawing or requiring pay-back of support already received when a determination of IUU fishing is made.

A second approach consists of including eligibility criteria for and provisions on withholding, withdrawing or requiring pay-back of support in each individual support programme agreement or contract. This approach is more common in federal States.

The third, indirect, approach makes use of the legal provisions for withdrawing fishing authorisations, which, combined with the need for an authorisation to be eligible for support, may also suspend support eligibility (and terminate or put on hold pending support). Due-diligence processes related to fishing authorisation and prior vessel registration, therefore, are the main avenues to exclude IUU fishing from support.

Finally, some economies provide little to no direct support to fishing, and therefore do not consider it necessary to exclude IUU fishing from support. Rather, such economies reported focusing on effectively deterring IUU fishing through other means – notably enforcement, detection, sanctions and penalties. Some economies that do have specific processes to exclude IUU fishing from support also flagged that the above measures are complements to other mechanisms for negating illegal gains from fishing, notably through enforcement and fines.

2.2. Comprehensive authorisation and registration processes

Ex ante, the first step of the due diligence process – denying eligibility to support – is often embedded in the authorisation process and prior registration, since fishing authorisation is needed to access support in most of the surveyed economies. The more detailed and verified is the information required in the vessel registration and authorisation processes, the greater the chances of identifying any links to IUU fishing,

¹⁰ The majority of surveyed economies requiring such a written commitment find it useful to increase awareness of and compliance with fisheries regulation amongst beneficiaries but some respondents also point at the additional administrative burden that such a requirement might impose.

and the easier it is to track vessel activities and to detect and sanction IUU fishing, including by negating support.

Excluding IUU fishing from support effectively, therefore requires registration and authorisation processes that are as comprehensive as possible – and appropriate to different contexts (many economies have simplified procedures for small-scale fisheries). The *2020 Review of Fisheries* (OECD, 2020_[19]), shows that progress has been made in registration and licensing processes. For example, in 2018 all respondents required fishing vessels to be registered and collected information on vessels' characteristics and details on the natural or legal persons in whose names vessels were registered. However, the *2020 Review of Fisheries* (OECD, 2020_[19]) also highlights two weaknesses of authorisation and registration processes, which are directly relevant to the challenge of preventing support benefitting IUU fishing. First, the identification of vessels' beneficial owners lags behind other areas: in 2018, a third of the economies surveyed for the *Review* did not ask for information on beneficial owners in the context of registration processes.¹¹ A quarter of surveyed economies also did not mandate the use of unique, verified and permanent vessel identifiers, such as an International Maritime Organisation (IMO) number. Using unique identifiers can facilitate monitoring, control and surveillance by avoiding cases whereby vessels change flags or names in order to escape global oversight, or register in another jurisdiction when their illegal activities are discovered. Second, the regulation of fishing-related activities lags behind that of fishing. In many economies, the licensing processes are less demanding for fishing-related activities than for fishing; while, in others, fishing-related activities are not still not subject to authorisation at all.¹²

Aside from authorisation processes, requiring vessels to be flagged in the State providing the support will ensure the supporting State has jurisdiction to sanction the supported vessel in cases of IUU fishing and avoid ambiguities which may occur if the supporting State and flag State employ different definitions of IUU.¹³

Consequently, to minimise the risk that government support benefits IUU fishing, governments should make all support conditional on being flagged to the supporting country and having fishing authorisation (Recommendation N°1). Where authorisation is not yet a condition for support eligibility, establishing such a condition would be an immediate priority. In addition, this could help create the incentive for informal fishers to apply for vessel registration and fishing authorisations where governments are trying to transition informal fisheries away from open-access regimes. This would also create an incentive for setting-up comprehensive licensing processes for fishing-related activities. In addition to conditions that are typically included in authorisations processes, such as position transmission through VMS or reporting of catch, where appropriate, the authorisations themselves should require: (i) unique vessel identifiers, such as an International Maritime Organisation (IMO) number, where appropriate; and (ii) detailed information on vessel beneficial owners.

2.3. Additional specific mechanisms to deny, withdraw and withhold support

Specific mechanisms to effectively exclude potential beneficiaries from all types of support (*ex ante*) – and withdraw and withhold support (*ex post*) where appropriate – can complement the use of eligibility criteria related to registration and licensing (as outlined in Section 2.2). Such mechanisms can create more flexibility for addressing different types of IUU fishing, and speed up the process. They should be sensitive to the national governance context – notably in terms of whether they should occur in overarching

¹¹ OECD (2020_[19]) also noted that for two-thirds of the economies surveyed for this report, tax authorities were not legally mandated to co-operate and share information with fisheries authorities to facilitate the detection of illicit proceeds and the identification of nationals who are the beneficial owners of IUU fishing vessels.

¹² For example, while all surveyed economies gave authorisations to fish in their jurisdiction conditional on catch reporting in 2018, over 20% did not require domestic vessels conducting fishing-related activities in their jurisdiction to report the transshipment of fish. Regulation of fisheries-related activities outside the jurisdiction was even more lax as over a fifth of respondents allowed vessels to conduct such activities in areas beyond national jurisdiction without any authorisation (OECD, 2020_[19]).

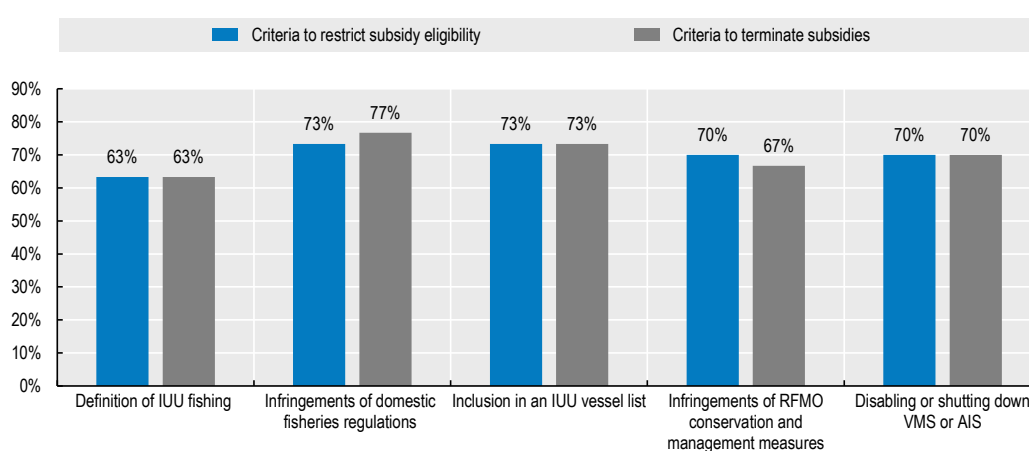
¹³ The United Nations Convention on the Law of the Sea (UNCLOS) Article 94 states that “every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”.

legislation and regulation, or in individual support programme agreement or contract – and follow due process. What follows discusses key issues to be considered in their design, such as what triggers action; who is concerned; for how long; and whether past support needs to be recovered.¹⁴

The survey results show that different criteria are used as a basis for cutting support. They include explicit definitions of IUU fishing (the nature of which, is discussed in Section 3.2), documented infringement of fisheries regulations, and inclusion on IUU vessel lists (Figure 2.1). Figure 2.2 details the particular lists that are used in that context.

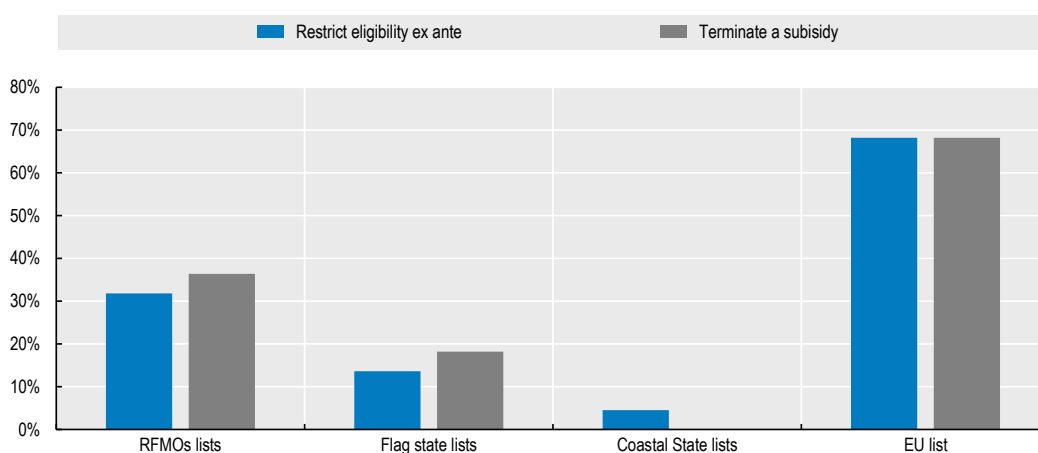
The role of RFMO/As is important as their IUU vessel lists, and determinations of infringement of their conservation and management measures are among the most widely used criteria to cut support to IUU fishing (Figures 2.1 and 2.2). This points to the importance of effective multilateral fisheries governance (Box 2.1).

Figure 2.1. Criteria used to exclude IUU fishing from government support



Source: OECD survey.

Figure 2.2. Use of different types of IUU vessel lists by economies reporting the use of IUU vessel lists as a basis to restrict, withhold or withdraw support



Note: This figure only considers the responses of economies who reported using at least one type of list as basis to restrict, withhold or withdraw support. Respondents could select multiple options.

Source: OECD survey.

¹⁴ Including eligibility criteria and provisions for withholding, withdrawing or requiring pay-back of support in each individual support programme agreement or contract can allow for more context specific conditions and is more common in federal States. However, it seems that ensuring all forms of IUU fishing actions are consistently excluded from all support programmes may be more challenging.

Box 2.1. The role of RFMO/As as regulators of high seas fisheries and IUU vessel lists

The first regional fisheries management organisations or arrangements (RFMO/As) were established in 1949 (International Commission for the Northwest Atlantic Fisheries and the Inter-American Tropical Tuna Commission) and have since increased to 16 established RFMOs in 2020 (OECD, 2020^[19]). RFMO/As can take a number of measures to prevent IUU fishing from happening in the areas or the fisheries they manage. These include: publishing of lists of vessels authorised to fish within the RFMO/A area as well as adopting IUU vessel lists; promoting the adoption of catch and activity reporting systems as well as catch and trade documentation schemes; imposing trade restrictions on seafood products from non-compliant countries and illegally harvested fish; mandating or undertaking on-board observer programmes, and at-sea and in-port inspections; setting minimum standards for registration and authorisation procedures as well as port State measures; and establishing provisions to exclude or reduce the benefits of RFMO/A membership to flag States of vessels involved in illegal activities (OECD, 2020^[19]). As such, RFMO/As also have a key role to play in ensuring IUU fishing does not benefit from public support. Around 35% of surveyed economies reported using RFMO/A IUU vessel lists as a basis to deny eligibility, withhold and/or terminate support. This underlines the importance of well-functioning RFMO/As.

The sharing of information, and more generally co-operation, between RFMO/As is also important for ensuring IUU fishing does not benefit from support. An example is the exchange of information between RFMO/As on vessels which have been listed as engaged in IUU fishing, and provisions in certain RFMOs to incorporate into their IUU list those vessels listed by another RFMO. The use of IUU vessel lists has been highlighted as a cost effective way of preventing IUU fishing by stopping vessels which have been identified from continuing to fish in the areas of competence of RFMO/As and restricting their ability to enter and land in ports of parties to the RFMO as well as the FAO PSMA Agreement.

Efforts to improve the awareness of the general public and accessibility of these lists would increase the transparency of RFMO/A management action. This would improve synergies between RFMO/A's and instruments like the FAO PSMA, and non-governmental stakeholders that utilise information on IUU vessel listing to determine access to port and purchasing decisions. Moreover, improved sharing of data and information between RFMO/As regarding these lists could act as a cost efficient way of preventing IUU fishing in their areas of competence, including by enhancing the effective implementation of mutual IUU vessel list recognition mechanisms.

Source: (Hutniczak, Delpeuch and Leroy, 2019^[21]; Hutniczak, 2019^[22]).

In addition, how different criteria trigger action may vary – and may not always be clear. Action on support is often possible once the vessel has been included on an IUU vessel list or when legal proceedings have been finalised. In some instances, however, the supporting economy might suspend support before a vessel is listed as being engaged in IUU fishing, if there is clear evidence of infringement of domestic regulation or RFMO/A conservation and management measures. Making greater use of such provisions would facilitate action in relation with support, by decoupling it from potentially long processes that may partly fall outside the competence of the supporting authorities such as vessel listing for IUU fishing by RFMO/As (IISD, 2020^[20]). Ultimately, this would allow governments to react more promptly to infringements and avoid situations where vessels and operators involved in IUU fishing continue to benefit from support even after an infringement.

While some fishing-related activities, such as transshipment, can be included in fisheries regulation, other types of fisheries-related activities, such as the transfer of fuel, food and crew from “mother ships” may be dealt with more effectively in other areas of regulation (such as labour or energy). Therefore, to fully exclude IUU fishing-related activities from support, it may be necessary to ensure infringements of non-fisheries regulation can also lead to the withdrawal or withholding of support.

The number of steps the withdrawal processes may entail also varies – in some cases, payments can be withheld until compliance issues are resolved and fines are paid, before a withdrawal is considered. Provisions for the repayment of support, when it is withdrawn, are also not universal: about a quarter of surveyed economies, which can withdraw support, do not have provisions in place to also ask for

repayment. Broader adoption of such provisions, where relevant, could not only recover tax-payers' money but also further increase the expected costs associated with IUU fishing.

The duration of applicability of support-related sanctions impacts the extent to which they disincentivise IUU fishing (IISD, 2020_[20]). The duration of sanctions for IUU fishing need to be graduated and proportional. Similarly, there is a case for support eligibility restriction periods for actors found to have engaged in IUU fishing to be proportional to the gravity of the action. However, if the withdrawing of support is only linked to authorisation for fishing, authorities may have less flexibility to tailor the sanctions to the gravity of the action. This is important since IUU fishing covers such a broad range of activities including those for which the withdrawal of fishing authorisation (and all support) would be disproportionately harsh.

Some economies set eligibility restrictions that have minimal and maximal durations depending on the severity of the infringement committed (for up to over 25 years). In addition, many surveyed economies restrict eligibility to support as long as vessels are included in an IUU fishing list. The European Union, for example, applies the principle of proportionality of sanctions by establishing periods of time for exclusion from support based on a point system that rates the seriousness of each infringement, and the duration of exclusion from support depends on the number of points.¹⁵ In addition, when a vessel is included in the European Union list of vessels engaged in IUU fishing, operators are excluded from support for at least 24 months and for the whole period during which the vessel is listed. The effectiveness of such mechanism rests on the effectiveness of IUU vessel listing and delisting processes and their responsiveness to new information which, implies a need for effective and responsive decision-making, particularly where several countries or authorities are concerned.

In summary, it is recommended (Recommendation N°2) that appropriate processes are used to effectively exclude from all types of support all potential recipients linked to IUU fishing and fishing-related activities (understood in a broad sense) by:

- being transparent about the consequences of IUU fishing before support is given and the use of support-related enforcement actions
- ensuring proportionality of government action by giving due consideration to the nature of the IUU fishing activity, and the context in which it happened
- delineating who is concerned; for how long; and whether past support needs to be recovered
- without necessarily tying action on support to other IUU-enforcement action (such as processes related to IUU vessel-listing).

2.4. Definitions of IUU fishing and fishing-related activities

The definition of IUU fishing and IUU fishing-related activities in legislation is a key issue. As seen in Section 2.2, a definition of IUU fishing set in national legislation is used by a number of economies as one of the criteria that can trigger action in relation to support. In most of these economies, the definitions of IUU fishing adopted in national legislation are very close to the IPOA-IUU description.¹⁶

In some economies, however, IUU fishing definitions are not used for the purpose of cutting support to IUU fishing, either because the national legislation does not define IUU fishing per se; or because the definition is meant for other purposes. In such cases, IUU fishing is implicitly defined as stemming from breaches of the law and infringement of regulation or to the conditions set in the support programme contracts or

¹⁵ The thresholds for sanctions are currently set by [EU Commission Delegated Regulation 2015/288](#).

¹⁶ Where IUU fishing is explicitly defined in national legislation, definitions generally follow the IPOA-IUU description with regards to the meaning of “illegal”, “unreported” and “unregulated” fishing. Korea, for example, has explicitly adopted the description of the IPOA-IUU to regulate illegal fisheries in international waters in its “Distant water fisheries development act”. The CPTPP, USMCA and NZ-UK TA also refer to the IPOA-IUU description explicitly. In addition, national definitions sometimes also include a list of specific conducts that constitute illegal fishing or serious infringements.

agreements. Cutting support on the basis of infringements of domestic regulation – including reporting obligations – may thus be sufficient to exclude IUU fishing from support.

However, defining IUU fishing *per se* in legislation is potentially useful to cut support for infringements that happen outside the supporting State's jurisdiction. By adopting comprehensive and practical definitions of IUU fishing and fishing-related activities, governments can both facilitate co-operation and ensure greater clarity for flag States, coastal States and vessel operators on what activities will be considered IUU and result in a sanction and the loss of support.

There is also a need for definitions to be flexible to different contexts and types of fishing. Definitions that are too rigid risk excluding (or even criminalising) more customary or informal types of management, especially in areas where centralised reporting of catches is challenging or impossible (Song et al., 2020^[23]). These considerations can also extend beyond the national contexts if trade agreements contain provisions on IUU fishing and support, as is increasingly the case (Box 1.2).

As discussed in Section 1.2, fishing-related activities – which are central to IUU fishing – are not specifically included in the IPOA-IUU description of IUU Fishing.¹⁷ In fact, fishing-related activities – themselves – are rarely defined in national legislation at all. The *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (PSMA) defines fishing-related activities for the purpose of the Agreement in Article 1(d) as: “any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea”. Better definitions of fishing-related activities in relevant legislation, and implicit inclusion of IUU fishing-related activities in IUU fishing definitions, would contribute to strengthening their regulation and to more effective deterrence of IUU fishing (OECD, 2020^[19]), including through sanctioning in relation with support.

In summary, it is recommended that governments adopt a definition of IUU fishing and fishing-related activities, under national legislation, with the objective of cutting support to those engaging in these activities, including when they happen outside the jurisdiction of the supporting country (Recommendation N°3). Such a definition will be particularly helpful when international co-operation is required. The IPOA-IUU is the most commonly used reference for defining IUU fishing, and the PSMA for defining fishing-related activities.

It is also recommended that governments better regulate and monitor the transshipment of fish and other fisheries-related activities, such as at-sea vessel supplying, including with authorisation and reporting obligations (Recommendation N°4).

3. Curbing support to IUU fishing in practice

By its nature, IUU fishing is hard to observe and document. Establishing links between IUU fishing activities – most often identified in relation to a vessel – and the individuals and companies that benefit from these activities as well as from public support can be even more difficult.

In addition to legal provisions to deny, withdraw or withhold support, ensuring fisheries support does not benefit IUU fishing therefore, requires processes to concretely target the vessels that engage in IUU fishing and IUU fishing-related activities, their operators, owners and beneficial owners (IISD, 2020^[20]). In some serious cases of IUU fishing, it may also be desirable to target all the vessels operated or owned by the guilty party, to maximise the impact on their risk-benefit prospects of engaging in IUU fishing (Hutniczak, Delpuch and Leroy, 2019^[21]; FATF/OECD, 2014^[24]). This stresses the importance of recommendation n° 1 suggesting to require detailed information on vessel beneficial owners in authorisation processes.

¹⁷ FAO is developing international voluntary guidelines on transshipment (FAO, 2020^[29]).

3.1. IUU fishing detection

Detecting and sanctioning IUU fishing requires the effective monitoring of fishing activities, both inside and outside a country's jurisdiction. Improving monitoring capacity, including on the high seas, is therefore vital for detecting IUU and ensuring support is withdrawn and, where necessary, repaid. However, between 2012-14 and 2016-18, spending on management and MCS fell substantially relative to fleet size in several economies (OECD, 2020_[19]). Prohibiting support that risks incentivising increased fishing capacity and effort as is being discussed in the WTO could free resources that may be re-purposed to management and MCS. Linking fishing authorisation to the use of vessel monitoring instruments and unique vessel identifiers (as suggested in recommendation n° 1) would also increase the chances of detecting IUU fishing and reduce likelihood of governments supporting IUU fishing unknowingly.

The monitoring of vessels in port can also help nations identify IUU fishing. Port States can inspect vessels entering their ports and deny access or use in cases of IUU fishing. The PSMA establishes for parties a commitment that they will meet a minimum standard of port inspection, and encourages international co-operation in this respect (Box 3.1). Fully implementing the PSMA provisions would not only improve the detection of IUU fishing but also reduce the profitability of IUU fishing by denying use of facilities and access to markets. Further, if the port in question is supported by the government, implementing the PSMA provisions will also directly prevent IUU fishing from benefitting from government support. The last *OECD Review of Fisheries* showed that 85% of surveyed economies are parties of the PSMA and most of them had the legislation in place to implement its key provisions but a number of them were still facing difficulties to implement a risk-based approach to prioritise inspections; set inspection targets; and deny port entry or use to vessels suspected of IUU (OECD, 2020_[19]).¹⁸

It is thus recommended to continue enhancing monitoring of fishing and fishing-related activities to better detect and deter IUU fishing; implement fully the key provisions of the PSMA and, where possible, become a Party to the Agreement (Recommendation N°5).

3.2. Information-sharing and transparency

Information-sharing among government agencies, between economies, and with RFMO/As is key to improving the evidence-base on which to exclude IUU fishing from support – both *ex ante* and *ex post* – and shorten associated processes. A rapid and effective flow of information from the authority making a determination of IUU fishing to the authorities delivering fishing authorisations and those delivering the support is required.

Notably this requires access to data on the recipients of support – which remains unavailable at a disaggregated level in many countries; data on registered and authorised vessels (as well as their operators, owners and beneficial owners); and data on vessels identified as engaging in IUU fishing. Making these data available to all relevant authorities would help States providing support stay informed and check IUU vessel lists against the records of vessels and individuals and companies having received support. This remains a key area for progress. Often, existing lists are incomplete; they list vessels but not the individuals and companies that are linked to them; and updates are not frequent enough. In many instances lists are not fully available to the public nor across government agencies.¹⁹

One particular area for which information tends to be missing, is beneficial ownership, as information is not always collected in the context of vessel registration and authorisation processes (Section 2.2). However, this information is not only useful for domestic fishing authorities, but also can be the basis for co-operation and tracking the foreign investments of beneficial owners. In cases where there is one

¹⁸ The FAO Global Information Exchange System (GIES) foreseen under the PSMA was launched in December 2021 in a Pilot Phase, which aims at compiling feedback from the Parties to the Agreement on any improvements and changes to be made to the system. The GIES enables Parties to the PSMA to cooperate and exchange information on port denials, inspection results and flag State actions with relevant States, the FAO, other international organisations and RFMO/As (source: <https://psma-gies.review.fao.org/>).

¹⁹ In 2018, only 20% of surveyed economy reported properly publishing lists of vessels identified as engaging in IUU fishing. The lists of foreign vessels authorised to fish and conduct fishing-related activities in water under national jurisdiction were also only published by a handful of governments (OECD, 2020_[19]).

beneficial owner for multiple vessels, this information can be used to exclude all their vessels from support in cases of severe IUU fishing (even if the IUU activities take place in other jurisdictions). Where possible, ensuring appropriate data sharing of beneficial ownership information between authorities, including fisheries relevant authorities – in the same country, and with partner countries and RFMO/As – in cases of IUU fishing, would be very helpful for the targeting of enforcement actions.

In some countries, information on beneficial ownership is publicly available through public company registries and others countries are considering adopting similar systems. In addition, international co-operation and exchange of beneficial ownership information is already taking place for tax purposes. The OECD *Global Forum on Transparency and the Exchange of Information for Tax Purposes*, which includes 163 member jurisdictions, monitors the implementation of the standards on Automatic Exchange of Information (AEOI) and Exchange of Information on Request (EOIR). These two Standards include various requirements pertaining to beneficial ownership information on legal entities and arrangements, including reporting, availability, access and exchange (OECD, 2017^[25]).²⁰

The peer reviews of these requirements have shown that there remains deficiencies in the legal framework of many jurisdictions, and they have faced challenges with implementation in practice. However, while beneficial ownership information may not always be readily available to tax authorities (IADB/OECD, 2019^[26]), jurisdictions have made steady progress in recent years to implement the beneficial ownership requirements – some of them introducing a beneficial ownership register.²¹

In addition, investing in recording and publishing clear information about the processes in place to cut support to IUU fishing and how they are implemented could reinforce their effectiveness. Publishing this type of information can deter IUU fishing by increasing the expected costs of engaging in these activities and reducing the financial incentive for operators (IISD, 2020^[20]). While rarely publicly accessible (to our knowledge), information is recorded by some surveyed economies on the number of support measures withheld or withdrawn and, more rarely, on their value. However, little to no information is available about cases where support was denied in the first place.

As a result, it is recommended to improve the capacity to make IUU fishing determinations; identify the people and companies concerned; and identify support recipients among them by: (i) improving information-sharing within and between government agencies, economies and RFMO/As; and (ii) increasing transparency on the processes in place to cut support to IUU fishing and their implementation and, where compatible with privacy legislation, on the recipients of fisheries support, including non-specific support and support to fishing-related activities (Recommendation N°6).

4. Reforming fisheries support

4.1. The case for moving away from support that is most likely to encourage IUU fishing

The pervasive nature of IUU fishing means that ensuring government support does not benefit IUU fishing is challenging for policy makers. This issue is exacerbated when considering jurisdictions where capacity to regulate and monitor fishing is limited. The fragmented governance environment in which fishers operate, muddies the waters further, by requiring policies to ensure the support programmes are compliant with several legal frameworks at national, supra-national and international levels (in many cases).

To supplement the mechanisms to both prevent support flowing to IUU fishing and to withdraw support from operators found to have engaged in IUU fishing, as discussed above, governments can depressurise the system, by reforming the way in which they support fisheries in the first place. This requires transitioning away from the types of support most likely to encourage over capacity and IUU fishing.

Support to fishers is delivered in many forms, with many objectives, and how these contribute to IUU fishing varies. While no support explicitly promotes IUU fishing or provides incentives for IUU fishers that are

²⁰ These requirements draw on the FATF definition of beneficial owners.

²¹ See <https://www.oecd.org/tax/transparency/documents/global-forum-annual-report-2021.pdf>.

different from that provided to legal fishers, some forms of support are more likely to contribute to IUU fishing. It is therefore possible to design policies that minimise the potential to contribute to IUU fishing.

The main difference between IUU fishing and other fishing is that IUU fishing does not respect management control that limits fishing effort. Therefore, assuming equal access, support that incentivises increased effort will increase IUU fishing effort proportionally more than regulated effort. Conversely, support with a more neutral effect on effort will affect IUU fishing and regulated fishing more equally, and with a generally less negative impact on the health of fish stocks.

Support that reduces the costs of fishing, such as by subsidising the cost of inputs – fixed (vessels and gear), and, even more so, operating expenses, fuel in particular – are the most likely to increase IUU fishing through impacts on effort levels (Martini and Innes, 2018^[27]). An effective means of preventing IUU fishing from benefitting from government support is, therefore, to transition away from support to inputs.

In addition, IUU fishing is likely to benefit from some forms of support to the sector as a whole, such as infrastructure, where exclusion *ex ante* is difficult or impossible. As these forms of support can also be effort increasing in nature and, given the difficulty of preventing individual operators from benefiting from them, eliminating such support will still be the most effective action in most instances. Where such support remains, other methods of tackling IUU fishing, such as port State measures or improved management, control and surveillance will be necessary.

It is thus recommended to reduce or redirect support away from policies that have the most potential to increase fishing effort and capacity and consequently drive higher levels of IUU fishing. This is notably the case of support that reduces the costs of vessels and fuel (Recommendation N°7).

Finally, while not considered as ‘unregulated’ under the IPOA-IUU, and authorised by some countries, fishing on the high seas that concerns species or areas outside the area of competence of any RFMO/A is not co-operatively regulated in a way that would allow for the sustainable management of the resources. It is therefore also recommended to explicitly exclude from support fishing on the high seas that occurs outside the competence of any RFMO/A (Recommendation n°8).

This may prove difficult in practice, as fishing outside the competence of any RFMO/A may represent only a fraction of a vessel’s activities on the high seas and the practice of transshipping, whereby vessels transfer harvested fish to other vessels, further complicates the tracing of operations in the high seas, and the task facing governments.

4.2. Alternative support options

Alternatives to support the sector exist. Government support can be re-oriented towards policies that improve the sustainability of the sector (such as investment in management and MCS) or support that increases the well-being of fishing communities while not entering into the revenues and costs of individual fishers. Ideally such support will be targeted at coastal communities in need generally, and contribute to their well-being, or creating economic opportunities generally. Support policies that have the effect of reducing the value of illegal fish products – such as policies that improve the traceability of fish products – can discourage IUU fishing while also rewarding regulated operators.

Re-purposing support away from policies that have the potential to benefit IUU fishing and towards those that do not would be a win-win for governments. Not only would such reforms reduce the opportunity for IUU fishing to benefit from government support, but also they would contribute to creating a more equitable and socially, economically and environmentally sustainable sector. They would also benefit ocean health more generally; and level the playing field for global fisheries. Supporting the achievement of the Sustainable Development Goal 14, such re-purposing would overall contribute towards a net improvement in the social benefits of fishing.

The last *OECD Review of Fisheries* (OECD, 2020^[19]) found there is significant scope for such repurposing. On average, between 2016-18, the 39 economies surveyed in the *Review* spent USD 3.2 billion annually on support that reduces the cost of inputs. Support to fuel was the single largest direct support policy, accounting for 25% of total support to the sector. At the same time, support considered to be less likely to benefit IUU fishing equalled less than one-third of spending to reduce the costs of inputs (USD 1.0 billion).

References

- Costello, C. et al. (2020), "The future of food from the sea", *Nature*, Vol. 588/7836, pp. 95-100, [7]
<https://doi.org/10.1038/s41586-020-2616-y>.
- FAO (2020), *Transshipment: a closer look*, FAO, <https://doi.org/10.4060/cb2339en>. [29]
- FATF/OECD (2014), *FATF Guidance: Transparency and Beneficial Ownership*, <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparencybeneficial-ownership.pdf>. [24]
- Galaz, V. et al. (2018), "Tax havens and global environmental degradation", *Nature Ecology & Evolution*, Vol. 2/9, pp. 1352-1357, <https://doi.org/10.1038/s41559-018-0497-3>. [6]
- Hutniczak, B. (2019), "Coordination between RFMOs on mutual recognition of IUU vessel lists", *Marine Policy*, Vol. 107, p. 103596, <https://doi.org/10.1016/j.marpol.2019.103596>. [22]
- Hutniczak, B., C. Delpuech and A. Leroy (2019), "Intensifying the Fight Against IUU Fishing at the Regional Level", *OECD Food, Agriculture and Fisheries Papers*, No. 121, OECD Publishing, Paris, <https://dx.doi.org/10.1787/b7b9f17d-en>. [21]
- IADB/OECD (2019), *A Beneficial Ownership Implementation Toolkit*, Inter-American Development Bank, <https://doi.org/10.18235/0001711>. [26]
- IISD (2020), *Stock Take of APEC Economies' Existing Measures on Withdrawal of Subsidies in Cases Where There Has Been a Determination of IUU Fishing*, <https://www.iisd.org/publications/apec-subsidies-cases-iuu-fishing>. [20]
- ILO (2016), *Fishers first - Good practices to end labour exploitation at sea*, International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS), Sectoral Policies Department (SECTOR). [17]
- Martini, R. and J. Innes (2018), "Relative Effects of Fisheries Support Policies", *OECD Food, Agriculture and Fisheries Papers*, No. 115, OECD Publishing, Paris, <https://dx.doi.org/10.1787/bd9b0dc3-en>. [27]
- OECD (2020), *OECD Review of Fisheries 2020*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/7946bc8a-en>. [19]
- OECD (2017), *Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264267992-en>. [25]
- OECD (2005), *Why Fish Piracy Persists: The Economics of Illegal, Unreported and Unregulated Fishing*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264010888-en>. [1]
- Österblom, H. (2014), "Catching Up on Fisheries Crime", *Conservation Biology*, Vol. 28/3, pp. 877-879, <https://doi.org/10.1111/cobi.12229>. [5]
- Poling, G. and C. Cronin (2017), *Illegal, Unreported, and Unregulated Fishing as a National Security Threat*, <https://www.csis.org/analysis/illegal-unreported-and-unregulated-fishing-national-security-threat>. [16]

- Reilly, A. (2018), *Overview of Food Fraud in the Fisheries Sector*, [8]
<http://www.fao.org/3/i8791EN/i8791en.pdf>.
- Rosello, M. (2021), *IUU Fishing as a Flag State Accountability Paradigm: Between Effectiveness and Legitimacy*, Brill Nijhoff. [30]
- Sala, E. et al. (2018), “The economics of fishing the high seas”, *Science Advances*, Vol. 4/6, [28]
 p. eaat2504, <https://doi.org/10.1126/sciadv.aat2504>.
- Sandin, S. (ed.) (2009), “Estimating the Worldwide Extent of Illegal Fishing”, *PLoS ONE*, [3]
 Vol. 4/2, p. e4570, <https://doi.org/10.1371/journal.pone.0004570>.
- Song, A. et al. (2020), “Collateral damage? Small-scale fisheries in the global fight against IUU fishing”, *Fish and Fisheries*, Vol. 21/4, pp. 831-843, <https://doi.org/10.1111/faf.12462>. [23]
- Spijkers, J. et al. (2019), “Global patterns of fisheries conflict: Forty years of data”, *Global Environmental Change*, Vol. 57, p. 101921, <https://doi.org/10.1016/j.gloenvcha.2019.05.005>. [9]
- Sumaila, U. and M. Bawumia (2014), “Fisheries, ecosystem justice and piracy: A case study of Somalia”, *Fisheries Research*, Vol. 157, pp. 154-163, [15]
<https://doi.org/10.1016/j.fishres.2014.04.009>.
- Sumaila, U. et al. (2020), “Illicit trade in marine fish catch and its effects on ecosystems and people worldwide”, *Science Advances*, Vol. 6/9, <https://doi.org/10.1126/sciadv.aaz3801>. [18]
- Telesetsky, A. (2014), “Laundering Fish in the Global Undercurrents: Illegal, Unreported, and Unregulated Fishing and Transnational Organized Crime.”, *Ecology law quarterly*. [14]
- Tickler, D. et al. (2018), “Modern slavery and the race to fish”, *Nature Communications*, Vol. 9/1, [13]
<https://doi.org/10.1038/s41467-018-07118-9>.
- UNODC (2011), *Transnational Organized Crime in the Fishing Industry: Focus on: Trafficking in Persons Smuggling of Migrants Illicit Drugs Trafficking*. [11]
- Urbina, I. (2019), *The Outlaw Ocean : Journeys across the last Untamed frontier*, Knopf. [12]
- Widjaja, S. et al. (2019), *Illegal, Unreported and Unregulated Fishing and Associated Drivers*, [2]
<http://www.oceanpanel.org/iuu-fishing-and-associated-drivers>.
- Witbooi, E. et al. (2020), *Organised Crime in the Fisheries Sector*, Washington, DC: World Resources Institute, <https://www.oceanpanel.org/blue-papers/organised-crime-associated-fisheries>. [10]
- World Bank (2016), *The Sunken Billions Revisited: Progress and Challenges in Global Marine Fisheries*, Washington, DC: World Bank, <https://doi.org/10.1596/978-1-4648-0919-4>. [4]

Annex A. Survey questions

These questions were used to gather information in preparation of this report. They are included here for potential use by other countries and economies, who may wish to assess their own processes for eliminating support to IUU fishing. For all questions, multiple answers were welcomed.

1. Legal framework

1.1. Restricting subsidy eligibility

1.1.a. Does your legislation include provisions to restrict eligibility for subsidies (ex ante) on the basis of criteria related to IUU fishing?

- Yes, eligibility can be denied **for engaging in IUU fishing** based on a definition of IUU fishing (please provide this definition in the comments)
- Yes, eligibility can be denied **for some types of infringements of domestic fisheries regulations** (please define which types of infringement in the comments)
- Yes, eligibility can be denied **when a vessel is included in an IUU vessel list** – Please specify which type of lists:
- RFMOs lists
 - Flag state lists
 - Coastal State lists
 - Other (please specify in the comments)

- Yes, eligibility can be denied **for infringements of RFMO conservation and management measures**
- Yes, eligibility can be denied **for links with non-cooperating economies**
- Yes, eligibility can be denied **for disabling or shutting down VMS or AIS**
- Yes, eligibility can be denied **for other motives** (please specify which in the comments)
- No, eligibility cannot be denied on the basis of criteria related to IUU fishing**

Please provide comments, references and links here:

1.1.b. What is needed to trigger subsidy eligibility denial on the basis of the criteria related to IUU fishing?

- Clear evidence
- The opening of an investigation or prosecution
- An administrative penalty or sanction
- A criminal conviction
- Inclusion on an IUU vessel list
- Other (please specify in the comment)

Please provide comments, references and links here:

1.1.c. To what or whom does the subsidy eligibility denial apply?

- The concerned vessel
- The operator of the concerned vessel
- The beneficial owner of the concerned vessel
- All the vessels owned by the beneficial owner of the concerned vessel
- Other (please specify in the comments)

Please provide comments, references and links here:

1.1.d. What is the duration of the subsidy eligibility denial?

- As long as a vessel; its owner; or its operator is included in an IUU fishing list
- As long as other penalties or sanctions remain in force
- For a specific duration
- Other (please specify in the comments)

Please provide comments, references and links here:

1.2. Terminating subsidies

1.2.a. Does your legislation include provisions to terminate a subsidy (ex-post) on the basis of criteria related to IUU fishing?

- Yes, a subsidy can be terminated **for engaging in IUU fishing** based on a definition of IUU fishing (please provide this definition in the comments)
- Yes, a subsidy can be terminated **for some types of infringements of domestic fisheries law** (please define which types of infringement in the comments)
- Yes, a subsidy can be terminated **when a vessel is included in an IUU vessel list** – Please specify which type of lists:
 - RFMOs lists
 - Flag state lists
 - Coastal State lists
 - Other (please specify in the comments)
- Yes, a subsidy can be terminated **for infringements of RFMO conservation and management measures**
- Yes, a subsidy can be terminated **for links with non-cooperating economies**
- Yes, a subsidy can be terminated **for disabling or shutting down VMS or AIS**
- Yes, a subsidy can be terminated **for other motives** (please specify in the comments)
- No, a subsidy cannot be terminated on the basis of criteria related to IUU fishing**

Please provide comments, references and links here:

1.2.b. When a subsidy is terminated, is the beneficiary also required to repay the amounts already received?

- Yes
- No

Please provide comments, references and links here:

1.2.c. What is needed to trigger subsidy termination on the basis of the criteria related to IUU fishing?

- Clear evidence
- The opening of a prosecution
- An administrative penalty or sanction
- A criminal conviction
- Inclusion on an IUU vessel list
- Other (please specify in the comment)

Please provide comments, references and links here:

1.2.d. To what or whom does the subsidy termination apply?

- The concerned vessel
- The operator of the concerned vessel
- The beneficial owner of the concerned vessel
- All the vessels owned by the beneficial owner of the concerned vessel
- Other (please specify in the comments)

Please provide comments, references and links here:

2. Implementation

2.1. In recent years, how many

Investigations for IUU were undertaken?

Number of investigation:

IUU cases led to administrative sanctions or penalties?

Number of sanctions and penalties:

IUU cases led to criminal conviction?

Number of convictions:

Subsidy demands were denied on the basis of criteria related to IUU fishing?

Number of denials:

Corresponding total amount of subsidies denied:

Subsidies were terminated on the basis of criteria related to IUU fishing?

Number of subsidy terminations:

Corresponding total amount of subsidies terminated:

Corresponding total amount of subsidies repaid:

Please provide comments, references and links here:

2.2. What information related to the above processes is publically available?

- Information about IUU investigations (please provide links)
- Information about IUU sanctions and penalties (please provide links)
- Information about IUU convictions (please provide links)
- Information about subsidy denials (please provide links)
- Information about subsidy terminations (please provide links)

Please provide comments, references and links here:

2.3. Could you please describe a few cases in which subsidies were either denied or terminated in relation with IUU criteria? (Cases can be anonymised)

2.4.a. Generally speaking, are subsidy beneficiaries required to make a written commitment with respect to compliance with fisheries regulations when being granted a subsidy?

- Yes, to comply with applicable fisheries regulations **during the time of subsidy**
- Yes, to comply with applicable fisheries regulations **during the time of the subsidy and for a period after that**

Duration of the commitment after the time of the subsidy:

2.4.b. How useful do you find such provisions to be? (if any)

- Useful to increase awareness of fisheries regulation amongst beneficiaries
- Useful to increase compliance with fisheries regulation
- Useful to facilitate subsidy denial or termination from a legal perspective
- Useful for other reasons (please specify in the comments)
- Not very useful as strong incentives to comply with regulation already exist and denying or terminating a subsidy can be done through other means
- Not very useful for other reasons (please specify in the comments)

Please provide comments, references and links here:

OECD FOOD, AGRICULTURE AND FISHERIES PAPERS

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