



Review of international regulations with respect to serious maritime crimes

Consultant Report

October 2021

IUU-Vessel exclusion from the MSC program

Summary table	
Vessel type	Vessels which can be subject to a MSC certification
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This document provides an overview of international regulations regarding illegal, unreported and unreported (IUU) fishing, as well as policy which impacts the legal status of a fishing vessel. All international regulations and treaties need to be ratified on a national level and can therefore only be enforced by national entities inside the respective jurisdiction. This creates significant limitations to an international scope of IUU regulations as the implementation will differ between countries from not-existent to fully recognized. Furthermore, legislation may not be limited to the fisheries realm and therefore, important regulations may be found elsewhere (e.g., safety at sea or worker rights).

Relevant recognition can be legally binding, or voluntary, in the form of a code of conduct. Countries can use code of conducts as guidelines for national legislation. This creates the justification to include code of conducts in this work. Table 1 includes all recognitions which have been considered in the creation of this work.

Finally, this document is a first scope of IUU and fisheries related regulations. A complete scope, including all conventions and their respective paragraphs applicable to the items of this work would require further investigation.

Naming conventions

Authorised is defined as an activity which can only be undertaken if the relevant national authority has granted permission.

Authority is an entity which grants and justifies the right to exercise the power of government.

Protected refers to legal protection, where an area, its resources and/or defined features are limited or cannot be the subject of extraction.

Recognition holds any document which context and/or content has been implemented into enforceable law.

A **vessel**, in the context of the document refers to any ship which could be included in a MSC certification.

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Table 1 | Relevant conventions, regulations and voluntary guidelines which can influence the legal status of a vessel and/or its operator

Subject	Name	Implementation
Ratified biodiversity/species conventions	1946 International Convention for the Regulation of Whaling (IWC)	88 States
	1973 Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)	182 States + EU
	1976 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention)	22 States
	1979 Bern Convention on the Conservation of European Wildlife and Natural Habitats (No 104, Council of Europe)	51 States
	1979 Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention/CMS)	130 States + EU
	1983 Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region (Cartagena Convention)	26 States
	1986 Convention for the Protection of Natural Resources and Environment of the South Pacific Region (SPREP)	12 States
	1992 Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention)	15 States + EU
	1992 Convention on Biological Diversity	196 States
Ratified marine environmental conventions	1958 IMO Marine Engine Regulations	167 States
	1965 Convention on Facilitation of International Maritime Traffic (FAL)	50 IMO member states
	1995 International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC)	112 states
	1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention)	89 States
	1973 International Convention for the Prevention of Pollution from Ships (MARPOL)	156 States
	1974 International Convention for the Safety of Life at Sea (SOLAS)	164 States
	1980 Convention on the conservation of Antarctic marine living resources (CCAMLR)	36 States
	1983 Bonn Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and other Harmful Substances	10 States + EU
	1984 United Nations Convention on the Law of the Sea (UNCLOS)	168 States
	2001 International Convention on the Control of Harmful Anti-fouling Systems on Ships (Anti-fouling Convention)	81 States

Subject	Name	Implementation
Ratified marine environmental conventions (RFMOs)	1949 Agreement establishing the General Fisheries Commission for the Mediterranean (GFCM)	22 States + EU
	1949 Convention for Establishment of an Inter-American Tropical Tuna Commission (IATTC)	21 States
	1966 International Convention for the Conservation of Atlantic Tunas (ICCAT Convention)	52 States
	1978 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)	13 States
	1980 Convention on future multilateral cooperation in North-East Atlantic fisheries (NEAFC)	5 States + EU
	1982 Convention for the Conservation of Salmon in the North Atlantic Ocean (NASCO)	5 States + EU
	1993 Agreement for the establishment of the Indian Ocean Tuna Commission (IOTC)	32 States
	1994 Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP)	6 States
	2004 Convention for the strengthening of the Inter-American Tropical Tuna Commission (IATTC)	17 States
	2006 Southern Indian Ocean Fisheries Agreement (SIOFA)	10 States
	2009 Convention on the Conservation and Management of High Seas Fisheries Resources in the Southern Pacific Ocean (SPRFMO)	15 States
Ratified marine environmental conventions	1982 Nauru Agreement (PNA)	8 States
	1993 Convention for the Conservation of Southern Bluefin Tuna	9 States
	1993 Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas	42 States + EU
	1995 Agreement to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks	91 States
	1999 The OECD Convention on combating bribery of foreign public officials in international business transactions	44 States
	2000 Convention against TOC	185 States + EU / others
Ratified marine environmental conventions	2000 Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean	15 States
	2001 Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean	9 States + EU
	2005 UN Convention Against Corruption	181 States + EU / others
	Transparency and Notification requirements (WTO)	164 States

Subject	Name	Implementation
EU Regulations	No 2020/475 Establishing a temporary fisheries closure for redfish	EU
	No 517/2008 Determination of the mesh size and assessing the thickness of twine of fishing nets	EU
	No 1005/2008 IUU Regulation	EU
	No 1185/2003 Shark finning regulation	EU
	No 1143/2014 Prevention and management of the introduction and spread of invasive alien species	EU
	No 1308/2013 Common Market Regulation	EU
	No 1380/2013 Common fisheries policy	EU
	No 2014/459 Regulation concerning the placing on the market for essential use of biocidal products	
	No 2016/2336 Deep-sea access regulation	EU
	No 2017/1130 Defining characteristics for fishing vessels	EU
	No 2017/2403 Regulation on the sustainable management of external fishing fleets	
	No 2328/2003 European Maritime and Fisheries Fund and repealing Council Regulations	EU
Ratified labour conventions	1966 International covenant on civil and political rights	173 states
	1930 Forced Labour Convention	179 states
	2006 Maritime Labour Convention	98 states
	2007 Work in Fishing Convention C188	14 states
Non-ratified conventions	2002 Fisheries Management Act (FAO)	-/-
	2009 Agreement on Port State measures to prevent, deter, and eliminate Illegal, Unreported and Unregulated fishing	69 States
	2012 Cape Town Agreement	-/-
Code of Conducts	1995 FAO – Code of Conduct for Responsible Fisheries	Voluntary
	2014 FAO Voluntary Guidelines for Catch Documentation Schemes (VGCDS)	Voluntary
IUU Vessel lists	RFMO – IUU vessel lists	-/-
	Good standing vessel lists	-/-
	Interpol notice	-/-

Evidence

There is a large variety of different methods to provide evidence on vessel activities and locations. To improve the format of the table this paragraph provides further details on these options which are listed under evidence in the table below. If it states 'all categories' in the table, all of the below could be applicable. A superscripted '1' will indicate that the evidence is publicly accessible and '2' will likely provide evidence on the vessel's identity.

Vessel tracking

- Automated Identification System (AIS) ^{1,2}
- Vessel Monitoring System (VMS) ²
- Global System for Mobile Communications (GSM) ²
- Long-Range Identification and Tracking (LRIT) ²
- Global Positioning System (GPS)

Documentation

- Logbooks ²
- Catch documentation ²
- Emails and written communication ²
- Hatch temperature logs ²
- Stowage plan ²
- Supply lists ²
- Bills / receipts ²
- Transshipment declarations ²
- Documentation from port authorities ²

Remote sensing methods

- Photography ^{1,2}
- Videography and CCTV ^{1,2}
- Electro Optical satellite imagery ¹
- Synthetic Aperture Radar ¹
- Radio Frequency

In-Person evidence

- Testimonials (e.g., Crew member whistleblowing, observer) ²
- Enforcement assets ²
- Vessel sightings ^{1,2}
- Owner/Operator company ^{1,2}
- Port authority ²

Other

- Historical activity ^{1,2}
- IUU lists ^{1,2}
- Flag state information ²

Table 2 | Items which can relate a fishing vessel to IUU fishing. Recognition includes the regulations and conventions of table 1 and evidence refers to the paragraph above.

Category	Subject	Description	Recognition*	Evidence
Jurisdictional infringement	EEZ	An unauthorised (e.g., foreign flagged) vessel engages in fishing activity inside the EEZ of a country.	EU (1005/2008, 1380/2013), UNCLOS parties (+ 6 coastal countries)	All categories
	National waters	An unauthorised vessel engages in fishing activity inside the 12 NM of a country.	EU (1005/2008, 1380/2013), UNCLOS parties (+ 6 coastal countries)	All categories
	MPA	An unauthorised activity (e.g., gear type activity, anchorage), respective to the MPA legislation, is performed.	RFMO, Regional Seas Convention	All categories
	Temporary Closure	Unauthorised fishing (e.g., gear type activity, time of day, target species), respective to the temporary closure regulations.	EU (2020/475), RFMO (IATTC**)	All categories
	Fishing without a license	Fishing activity occurs without the appropriate license, or the license is not valid.	EU (1380/2013), RFMO, PNA	Documentation In-Person evidence Other
	Transshipments without authorisation	Two vessels exchange services or resources (including but not limited to catches, crew or tools) without authorisation and/or the appropriate declaration.	RFMO	All categories
	Bunkering without authorisation	Two vessels exchange fuel without authorisation and/or the appropriate declaration.	RFMO (WCPFC)	All categories
	Unauthorised port call	Vessel enters port without the applicable authorisation.	PSMA members	All categories
	Unauthorised navigation/ entry	Appropriate pre-arrival notification not submitted to relevant authority.	PSMA members	Vessel tracking Documentation In-Person evidence
	Evading enforcement	Vessel has been responsible for a crime but has subsequently left the jurisdiction.	PSMA members	All categories

Category	Subject	Description	Recognition*	Evidence
Vessel Identity	Flag state violation.	The vessel declares no, or more than one, flag state.	UNCLOS parties (+ 6 coastal countries)	Documentation In-Person evidence Other
	Identity changes	Vessel changes the name, IMO-Number or International Radio Call Sign without being authorised or following the relevant procedures.	EU (414/2007), SOLAS	Documentation In-Person evidence Other
	Lack of identifiers	Vessel which is required to hold an identifier or trace-unit (e.g., AIS), does not possess it.	SOLAS, FAL	Vessel tracking In-Person evidence
	Not displaying identifiers	Vessel which is required to hold an identifier or trace-unit (e.g., AIS), does not display it in the required way.	SOLAS, FAL	Remote Sensing In-Person evidence Other
	False identification	A vessel displays or transmits misleading or false information.	EU (2017/2403), SOLAS, IMO	Vessel tracking Remote Sensing In-Person evidence
	Lack of transmission	The vessel does not transmit on the required tracking and tracing system.	EU (2017/2403), FAL, SOLAS	Vessel tracking In-Person evidence
	Vessel type changes	A vessel may be rebuilt or set up to fit multiple purposes but only registered or allowed to engage in a specific type of activity.	Rebuilt and utilization dependent	Documentation In-Person evidence
	IUU listed vessel activity	An IUU listed vessel engages in activity related to the listing (e.g., repeating offense).	RFMO	Other
	Documentation fraud	The vessels documentation is not valid or counterfeit.	Utilization dependent	Documentation In-Person evidence Other
	License fraud	The vessels license is not valid or counterfeit.	EU (2017/2403), IMO, RFMO	Documentation In-Person evidence Other
	Gross tonnage	The declared gross tonnage of the vessel is fraudulent.	EU (2017/1130), SOLAS	Documentation In-Person evidence Other

Category	Subject	Description	Recognition*	Evidence
Catch	Species	The vessel targets a protected species or uses gear which is unauthorised for the protection of a species (e.g., J – Hooks, gillnets, etc.).	Bern Convention, CITES, Convention on Biological Diversity, EU (1005/2008), IWC, RFMO	All categories
	Misreported catches	The catch size or composition is miss presented in catch documentation.	EU (1005/2008), RFMO	Remote Sensing Documentation In-Person evidence
	Catch quota	The vessel exceeds its catch quota for a species.	Convention on Biological Diversity, EU (1380/2013), PNA, UNCLOS, UN fish stocks agreement	Documentation In-Person evidence
	Size	The vessel catches undersized (e.g., juveniles) or oversized fish.	EU (1380/2013), RFMO	Remote Sensing Documentation In-Person evidence
	Habitat destruction	The vessels activity results in the destruction of protected habitat (e.g., coral reef).	Convention on Biological Diversity, EU (1005/2008), RFMO, Regional Seas Convention	Remote Sensing Documentation In-Person evidence
	Lack of Observer	Fishing without a required fisheries observer	EU (1380/2013, 1005/2008), RFMO, PNA	Remote Sensing Documentation In-Person evidence
	Bycatch	Vessel creates unauthorised bycatch (e.g., quantity, species, size) or doesn't respect by-catch move on rules.	CITES, Convention on Biological Diversity, EU (1005/2008), RFMO	Remote Sensing Documentation In-Person evidence

Category	Subject	Description	Recognition*	Evidence
Catch	Discards	The vessel discards unauthorised catch.	EU (1380/2013), RFMO	Remote Sensing In-Person evidence
	Fishing aggregation devices	The vessel uses a FAD in fishing operations during a FAD closure period or in an area where FADs are not permitted.	RFMO (WCPFC, PNA)	All categories
	Depth	A vessel exploits deep-sea fish stocks without authorisation.	EU (No 2016/2336)	Documentation In-Person evidence
Gear	Gear ban	The possession or the use of certain gear-type is not allowed in a set area.	EU (1380/2013), FAO	All categories
	Mesh size	The nets mesh is below allowable sizes.	EU (517/2008), RFMO, FAO	Documentation In-Person evidence
	Destructive practices	While it is legal to catch certain species, related practises may not be (e.g., shark finning, dynamite fishing, etc.).	CITES, Convention on Biological Diversity, EU (1185/2003)	All categories
	Vessel size	The vessel gross tonnage and/or capacity exceeds agreed CPUE.	EU (2017/1130)	Documentation In-Person evidence Other
	Vessel motorisation	The vessels engine exceeds allowable ISO standards.	EU (2017/1130)	Documentation In-Person evidence Other
	Unauthorised spotter plane usage	Using a spotter plane in an area where it is not authorised, or the operator does not hold the appropriate permit.	Only National (e.g., US)	Remote Sensing In-Person evidence
	Gear stowage	A vessel on innocent passage has not followed national gear storage legislations.	FAO (fisheries management act)	Remote Sensing Documentation In-Person evidence Other

Category	Subject	Description	Recognition*	Evidence
Trade	Species	A protected specimen or parts of one are traded.	Cartagena Convention, CITES, IWC	Documentation In-Person evidence Other
	Container	The container has not been sealed in the appropriate way to ensure the integrity of the content.	EU (1308/2013), WTO	Remote Sensing In-Person evidence
	Lack of declaration	A catch declaration was not issued or is missing.	EU (1308/2013), WTO	Documentation In-Person evidence
	Fraud or lack of declaration	Information on the catch declaration is not accurate.	CITES, EU (2328/2003), WTO	Documentation In-Person evidence
	Trafficking of unauthorised goods	The vessel trades unauthorised or illegal goods (included but not limited to drugs, weapons or protected species or parts – e.g., ivory).	Cartagena Convention, CITES, EU (1308/2013), UN Convention against TOC	Documentation In-Person evidence
Human rights	Employment	Workers associated to the vessel are not treated in line with their contract and/or rights.	Ratified labour conventions	Remote Sensing In-Person evidence
	Contractual	The contract of the workers does not exist or is not aligning with worker and/or human rights.	Ratified labour conventions	In-Person evidence
	Paperwork	Workers do not have access to their identity information, contract, or other relevant information.	Ratified labour conventions	In-Person evidence
	Trafficking	Humans are/were on the vessel against their will and legal authorisation.	Ratified labour conventions	Remote Sensing In-Person evidence
	Safety at sea	The vessel violates safety regulations (e.g., outdated life rafts, insufficient equipment).	Ratified labour conventions, SOLAS	Documentation In-Person evidence
	Prostitution or sex trafficking	The vessel is not a constituent of or for illegal prostitution or sex trafficking.	UN Convention against TOC	In-Person evidence

Category	Subject	Description	Recognition*	Evidence
Environmental	Oil spills	The operator does not follow environmental regulations in case of an oil spill.	Barcelona Convention, Bonn Agreement, IMO (OPRC), London Convention, MARPOL	Remote Sensing Documentation In-Person evidence
	Discharge	Vessel discharges ignore national permissions (e.g., distance from shore).	Barcelona Convention, London Convention, MARPOL, OSPAR Convention	Remote Sensing Documentation In-Person evidence
	Dumping	The vessel engages in dumping at sea without a permit.	Barcelona Convention, London Convention, MARPOL, OSPAR Convention	Remote Sensing Documentation In-Person evidence
	Ghost fishing	The fishing vessel loses gear and does not follow legally binding procedures (e.g., to retrieve the gear or polluter-pays principle).	Barcelona Convention, OSPAR Convention	Remote Sensing Documentation In-Person evidence
	Bio fouling	The vessel does not follow regulations regarding bio fouling deterrence.	Anti-fouling Convention, EU (2014/459)	Documentation In-Person evidence Other
	Introduction of invasive species	A non-native species is released into a new area.	Cartagena Convention, EU (1143/2014)	In-Person evidence
	Emissions	The vessel emits higher levels of particulates (e.g., CO2, soot, etc.) than allowed.	IMO, MARPOL	All categories
Other	Piracy	The vessel has supported piracy to occur.	IMO, UNCLOS	Vessel tracking Remote Sensing In-Person evidence
	Vessel theft	A vessel is operating by unauthorised personnel.	IMO	All categories
	Operations	A vessel is owned by an unauthorised person or organisation (e.g., without the appropriate license).	IMO	Documentation In-Person evidence Other
	Money Laundering	The vessel is used for money laundering.	EU (FATF)	Documentation In-Person evidence Other

Category	Subject	Description	Recognition*	Evidence
Other	Corruption	The vessel operators or owners have engaged in corruption (e.g., paying port authorities to create a catch certificate, paying observers to not report unauthorised activity or accept money to use the vessel to facilitate transnational organised crime).	EU (No 2328/2003), OECD Convention on combating bribery, UN Convention Against Corruption	Documentation In-Person evidence Other
	Vessel did not follow flag countries request	Vessel did not follow flag countries request (e.g., to report to home port for inspection).	PSMA	All categories

* All listed items will have at least some sort of local recognition in a single country. The row therefore only names conventions and regulations on an international level, as of Table

** IATTC established the 'El Corralito' temporary closure, an example of legal consequences can be found [here](#).