



The costs and benefits of being a flag State

The Western Indian Ocean has rich marine resources that attract around 500 commercial fishing vessels, mainly to catch tuna that will be consumed in Europe, Asia or America. Most of the vessels fishing in the region are foreign flagged.

While all the coastal States of the region have a history of fishing, none has developed home grown industrial fishing fleets. However, recent interest in blue growth has encouraged authorities to embark on a route of fleet development through the flagging of foreign-owned or controlled fishing vessels. Today, around 20 per cent of the vessels fishing for tuna and other large pelagic species in the Western Indian Ocean – about 90 fishing vessels – are flagged by regional coastal States.

Flag States play a critical role in controlling and monitoring the activity of their flagged fishing vessels and, given the high levels of non-compliance found during FISH-i investigations into illegal fishing, there is a significant opportunity for flag States of the Western Indian Ocean to help stop illegal fishing.

In accordance with the 'FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas', no State should authorise any fishing vessel to fly its flag unless it is satisfied that it is able to effectively exercise its responsibilities under the Agreement in respect of that fishing vessel. The flag State is required to exercise effective control over their vessels to ensure that they operate legally, both within their national jurisdiction and in areas beyond national jurisdiction.

To achieve this, the flag State should: for all areas where the vessel sails, require licences and authorisations, information, records, reports and compliance with legislation and/or international conservation and management measures.

Countries that operate an open registry, that permit registration of foreign-owned and operated vessels where the vessel owners do not have assets in the flag State are especially attractive to illegal operators as the flag State holds no effective means of recovering costs or applying sanctions.

What are the costs and benefits of being a flag State?

While the benefits of flagging fishing vessels are easy to understand the costs are often overlooked, or are felt by those who do not have control over the vessel registration process.



DIRECT REVENUE BENEFITS

Registration fee, paid by the vessel owners to register their fishing vessel with the flag State.

Authorisation to fish/operate fee, paid by the vessel owners to obtain an authorisation for a fishing vessel to fish/operate outside of national waters.

Fishing licence fee, paid by the vessel owners if they wish to obtain a fishing licence to fish within the waters of the flag State.

Other income may include profit sharing with the flag State, additional taxes or fees, for example associated with mandatory vessel monitoring systems (VMS) or logbook submissions.



OTHER POTENTIAL BENEFITS

Employment of national crews aboard fishing vessels may be required, possibly with associated training provided by the operators/owners to ensure the necessary pool of qualified/skilled nationals are available.

Increased demand for port services such as maintenance, repairs, and supplies may benefit the local economy, some flag States make it a requirement for fishing vessels to call to port a certain number of times per year to increase their ability to monitor the vessels and to increase revenue.

Increased landings and processing may result from requirements to land and/or process a certain percentage or amount of fish annually. This requirement may exist to increase local employment opportunities and increase input of fish to the local economy and for local consumption.

Increased historical catch in support of future quota allocation. The quantity of catch reported by a State's national-flagged fishing vessels over time establishes their historical catch and thus, the possible assurance of future quota through e.g. the Indian Ocean Tuna Commission (IOTC).

Increased information for fisheries management as more detailed reporting and observer information may contribute to improve management of the fisheries.

Options for joint venture arrangements between local companies and the foreign operators generated from flagging vessels may provide benefits to the local partner company in terms of income and capacity development.



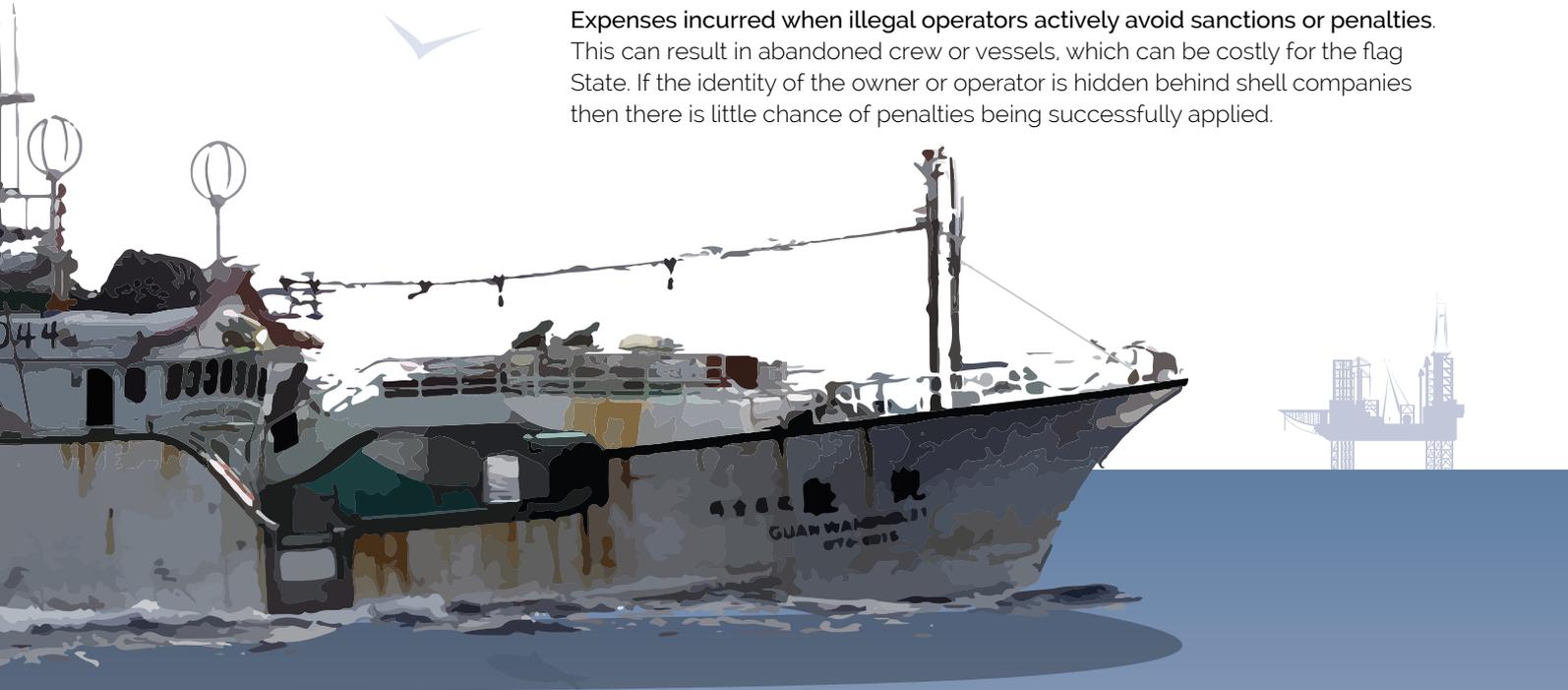


POTENTIAL COSTS OF NON-COMPLIANCE

Sanctions may result from a failure to comply with obligations. RFMOs, market States or a regional economic integration organisation such as the European Union (EU) could enforce sanctions. For example, the European Commission can issue formal warnings (yellow card) or bans on market access for fish into the EU and a ban on EU flagged vessels fishing in the flag States' waters (red card) if that State cannot or does not control its fishing fleet.

Loss of reputation from having non-compliant fishing vessels can negatively affect the regional and international community's perception of the flag State.

Expenses incurred when illegal operators actively avoid sanctions or penalties. This can result in abandoned crew or vessels, which can be costly for the flag State. If the identity of the owner or operator is hidden behind shell companies then there is little chance of penalties being successfully applied.



DIRECT COSTS

Implementing effective monitoring, control and surveillance (MCS) to ensure compliance, a flag State must implement comprehensive and effective MCS measures, including VMS, patrols, boarding and inspections, investigations.

Working with internationally based agents/representatives involves communication to ensure that they act in compliance with procedural requirements and legislation. The costs for communications, interpretation and translation are likely to be higher when a vessel is fully or partially foreign owned.

Flag State reporting/information sharing requirements include providing information on national fishing vessels and catches to regional fisheries management organisations (RFMOs) and coastal, port and market States, can be costly and may require: certifying that the catch has been caught legally; reporting the quantities of catch by species and/or vessel; and sharing vessel recorded movements or logbook entries.

Strengthened legislation and policies will be required to incorporate new measures and address gaps in national legislation, such as RFMO Resolutions that impact flag States. This requires resources for development, implementation and capacity development.

Investigation and enforcement actions must be undertaken to ensure compliance by fishing vessels with national law, RFMO conservation and management measures, and applicable laws of other coastal States, these activities will have financial costs.

Coordination among all relevant authorities with responsibility over flagged fishing vessels e.g. fisheries, port, maritime administration, navy, coastguard, to effectively control their flagged fishing vessels.

Flag States are encouraged to participate in RFMOs that govern areas where their vessels operate, and such participation – or even cooperating non-membership – will require financial contributions that will increase with the number of vessels.

How to be a responsible flag State

The role and responsibilities of flag States are established in various legally binding international agreements and form the basis of the FAO Voluntary Guidelines on Flag State Performance that require the flag State to:

- Act in accordance with international law with respect to flag State duties
 - Respect national sovereignty and coastal State rights
 - Prevent, deter and eliminate IUU fishing or fishing related activities in support of such fishing
 - Effectively exercise its jurisdiction and control over vessels flying its flag
 - Take measures to ensure that persons subject to its jurisdiction, including owners and operators of vessels flying its flag, do not support or engage in IUU fishing or fishing related activities in support of such fishing
 - Ensure the conservation and sustainable use of living marine resources
 - Take effective action against non-compliance by vessels flying its flag
 - Discharge its duty to cooperate in accordance with international law
 - Exchange information and coordinate activities among relevant national agencies
 - Exchange information with other States and give mutual legal assistance in investigation and judicial proceedings, as required by their respective international obligations
 - Recognise the special interests of developing States, in particular the least developed among them and small island developing States, and to cooperate to enhance their abilities as flag States including through capacity development
- Additionally, the Guidelines have two Schedules, the first details possible conditions for authorisation such as mandatory VMS, catch reporting and observer coverage, and the second covers the various ways the flag State may conduct MCS.

All eight FISH-i Africa countries are members of the Indian Ocean Tuna Commission (IOTC), therefore implementation of the IOTC Resolutions form a significant part of flag State responsibilities of FISH-i members. Key obligations include:

- Monitoring vessels using a VMS
- Reporting catch data
- Investigating and taking enforcement action against IUU activity
- Ensuring that vessel owners are citizens or legal entities within the flag State so that any control or punitive actions can be effectively taken against them
- Having an observer present to oversee at sea transshipment
- Prohibiting use of artificial lights or the use of aircrafts or drones in fishing activity
- Investigating reports of IUU fishing and taking enforcement action
- Denying licences to vessels involved in IUU fishing activities
- Complying with specific regulations relating to sharks, cetaceans, turtles and seabirds

FISH-i Africa unites the countries of the Western Indian Ocean in an alliance that is showing that regional cooperation, coupled with dedicated analysis and technical expertise can stop illegal fishing.

FISH-i Africa is a Stop Illegal Fishing initiative supported by The Pew Charitable Trusts and a Coordination Team made up of Stop Illegal Fishing, NFDS and Trygg Mat Tracking.

www.fish-i-africa.org

