

TRANSHIPMENT AT SEA

The Need for a Ban in West Africa



IUU FISHING

Global losses due to **Illegal, Unreported, and Unregulated (IUU) or pirate fishing** are estimated to be between **US\$10 billion and US\$23.5 billion per year**. West African waters are deemed to have the highest levels of IUU fishing in the world, representing up to **37 percent** of the region's catch¹. By depleting fish stocks, IUU fishing severely compromises the food security and livelihoods of coastal communities, which rely on fish as their main source of protein and revenue. It is also a threat to marine biodiversity and the marine environment: pirate vessels disregard management plans and use fishing methods that destroy marine habitats.

INTRODUCTION

This briefing sets out the **ENVIRONMENTAL JUSTICE FOUNDATION'S (EJF)** case for a ban on transshipments of fish at sea in West Africa as well as a ban on the entry of seafood from such transshipments into the European market. It draws heavily on the evidence EJF has gathered through its work towards the eradication of IUU fishing in West Africa.

The international movement of fisheries products – both legal and illegal – often depends on 'transshipments'. In this context, transshipments are the transfer of consignments from a fishing vessel to another vessel, generally a refrigerated cargo ship, or 'reefer'. This can take place either in port or at sea.

Transshipments at sea are sometimes legally authorised, but in many instances they are carried out illegally or without any permission. Whether or not authorised, transshipments at sea frequently facilitate the laundering of IUU fish due to the inability of coastal and flag State authorities to monitor how, by whom and where transferred fish was caught. Transshipments at sea are a key cause of the lack of transparency in global fisheries that enables IUU fishing. As well as facilitating pirate fishing, EJF documented that crews on board vessels that tranship at sea are often victims of human rights abuses and labour violations as they often stay at sea for long periods and rarely go to port².

Transshipments at sea are common practice. Many fishing operators favour them as a quick way of avoiding bureaucratic port controls and maximising their profits. In West Africa, some coastal countries such as Senegal forbid transshipments at sea in an effort to combat IUU fishing, as does the International Commission for the Conservation of Atlantic Tuna (ICCAT) for some classes of tuna vessels³. However, many West African coastal countries continue to authorise them.

Fisheries regulations regarding at-sea transhipment vary from one country to another. In some cases, such as Sierra Leone, it is clearly expressed in the law that transshipments can take place at sea with the approval of government officials⁴. The most common reason cited for at-sea transshipments is that ports in some developing countries cannot accommodate large reefers. However, some coastal countries allow such transshipments to take place more than 100 nautical miles away from the coast, where monitoring by their authorities is practically impossible. Through its monitoring work in West Africa, EJF was able to identify Guinea as one of these countries. Although the fisheries law as well as the national Fishing Plan stipulate that transshipments should take place only in port under the supervision of an inspector, they frequently take place at sea in remote locations, far from supervision, thanks to legal loopholes that allow exceptional, 'special authorisation'⁵.

BANNING TRANSHIPMENTS AT SEA IN AN EFFORT TO COMBAT IUU FISHING

EJF’s call on coastal and flag States to ban transshipments at sea in West Africa is part of the wider effort to combat IUU fishing and fits with the objectives of the International Plan of Action against Illegal, Unreported and Unregulated fishing (IPOA-IUU)⁶. Following the adoption of the IPOA, the Food and Agriculture Organisation of the United Nations (FAO) produced the following guidelines:

‘Because it is difficult to monitor transshipments at sea, IUU fishers usually prefer to tranship their catch at sea rather than in port. Coastal countries should consider requiring that all transshipments take place in port or, at a minimum, require that transshipment at sea is done in accordance with proper controls and at locations where inspectors can be present to check the details of the fish being transhipped’⁷.

Many States, whether acting as flag States or coastal States, have taken action to ban transshipments at sea in an effort to combat IUU fishing. Article 11 of the EU-IUU Regulation prevents vessels flagged to EU Member States from transshipping at sea (unless transshipping onto carrier vessels under the auspices of an RFMO), recognising the link between transshipments at sea and IUU fishing:

‘Transshipments at sea escape any proper control by flag or coastal States and constitute a usual way for operators carrying out IUU fishing to dissimulate the illegal nature of their catches’⁸.

Coastal States are also taking action at the regional level: a group of neighbouring countries in the Pacific (FFA) have created common rules for fisheries as a way to combat IUU fishing through the adoption of Harmonized Minimum Terms and Conditions for Foreign Fishing Vessel Access that ban transshipments in the maritime waters of all coastal countries in the region⁹.

RFMOs are international organisations formed to manage either the fish stocks of a specific area or highly-migratory species, such as tuna, across a vast geographic area. They have a central role to play in preventing, deterring and eliminating IUU fishing. Many of the world’s most valuable stocks of fish, and a large number of those stocks most subject to significant IUU fishing, fall under the purview of RFMOs. Recent international agreements have called upon States to strengthen the general capacities of RFMOs and to establish new RFMOs to cover regions and/or fish stocks that are not yet covered.

The IPOA-IUU echoes these calls to expand the breadth and capacities of RFMOs, in order to deal more effectively with IUU fishing. Following its adoption, many RFMOs have taken action on transshipments at sea. At present, four regional tuna RFMOs, including ICCAT and the single species RFMO CCSBT, are harmonising their efforts and all currently operate their own programmes to monitor transshipments with independent observers. These arrangements only cover large-scale longline vessels. Three of these RFMOs, including ICCAT, have also banned at-sea transshipments for purse seiners¹⁰.

Whilst not completely banning them, other RFMOs have taken measures regarding transshipments at sea following the IPOA-IUU, such as the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) and the North East Atlantic Fisheries Commission (NEAFC). CCAMLR recently adopted Measure 10-09 which requires the contracting parties to provide at least 72 hours notice before any of their vessels intend to tranship in the Convention area and to provide vessel details, proposed time, position and products to be transhipped¹¹. This is then verified using an electronic catch reporting system.

Countries in FAO 34 where EJF has investigated rules and practices covering transshipments at sea	BANNED AT SEA	AUTHORISED AT SEA
Senegal	●	
Gambia		●
Guinea Bissau		●
Guinea*		●
Sierra Leone		●
Liberia		●
Ghana		●
Gabon		●
Ivory Coast	●	

* Transshipments at sea are authorised thanks to special authorisations although the Fishery law and Fishing Plan provide that transshipments should take place in port

TRANSHIPMENTS AT SEA AND LINKS WITH IUU FISHING

CASE STUDY: *Sierra Loba*

In November 2012, EJF investigated the Curacao-flagged reefer *Sierra Loba*, which brought fish to the port of Busan in Korea. Several Korean-flagged vessels in Guinea and Gabon were authorised by coastal States to tranship fish at sea onto the *Sierra Loba*, including fish that was illegally caught. Among them was the *Poong Lim 12*, which EJF documented fishing illegally in the Inshore Exclusion Zone (IEZ) only 10 days before the date of the transhipment. An IEZ is an area where industrial fishing is legally prohibited. The *Sierra Loba* also transhipped in Guinea with the *Five Star* and the *Kummyeong 2* (both Korean-flagged vessels), which are considered 'fugitive IUU vessels' in Sierra Leone after committing offences and subsequently fleeing to Guinea¹².



The *Sierra Loba* unloading boxes of fish in the port of Busan (Korea) © EJF

WHY TRANSHIPMENTS AT SEA SHOULD BE BANNED: THE LACK OF CONTROL IN AUTHORISED TRANSHIPMENTS

Due to insufficient control and monitoring by flag and coastal States, EJF is calling for transhipments at sea to be banned in FAO 34, the region of the Atlantic Ocean that borders West Africa. Although often legal and authorised by fisheries authorities, at-sea transhipments facilitate the transport of IUU fish and its access to market. These transhipments often take place in extremely remote locations. Developing coastal countries do not have the logistical capacity to inspect the vessels at sea before the transhipments takes place and ensure that the fish has been caught legally. Instead, coastal States rely on observers onboard individual fishing vessels to ensure the legality of activities. However, this is not a sufficient method of control for three reasons:

- Observers do not have the authority or capacity to arrest cargo vessels in cases of illegal activities.
- Observers are often compromised, as in many coastal States they are paid by the operators rather than the Government and thus rarely expose illegal fishing.
- Observers remain on individual fishing vessels and cannot monitor and verify the documents held by cargo vessels to ensure that the transferred fish is being properly logged and presented on arrival to port. Observers on legal vessels that are authorised to tranship onto reefers at sea are powerless to prevent that ship from subsequently transhipping with IUU vessels and laundering the illegal fish under the legal vessel's paperwork.

POONG LIM 12 (Korea flag; IMO 6820036) **Offences:** fished in the Guinean IEZ, obscured external markings (September 2012)

FIVE STAR (Korea flag; IMO 7123772)
Offences: transhipping without authorisation to the Canarian Reefer, fleeing Sierra Leone (January 2012)
OUTSTANDING FINE IN SIERRA LEONE

KUMMYEONG 2 (Korea flag; IMO 6802981) **Offences:** obscuring markings, fishing within the IEZ, fleeing Sierra Leone when called to port (December 2011)

OUTSTANDING FINE IN SIERRA LEONE

AUTHORISED TRANSHIPMENT

SIERRA LOBA
(Curacao flag; IMO 912017)

Location of transhipment:
Guinea

Date: October 2012

Port of destination:
Busan (Korea)

Illegally caught fish was landed in the port of Busan following this **AUTHORISED** but unmonitored transhipment at sea

CASE STUDY: *Seta 73*

In March 2011, EJF documented the illegal transshipment of the *Seta 73* with the *Seta 70*, *Marcia 707*, *515 Amapola* and *Medra*. The four vessels had been documented by EJF fishing illegally in the IEZ of southern Sierra Leone during the two months prior to the transshipment. Consequent investigations by the EU revealed numerous other IUU transshipments undertaken by the *Seta 73* in other West African countries including Liberia, Guinea and Guinea Bissau.

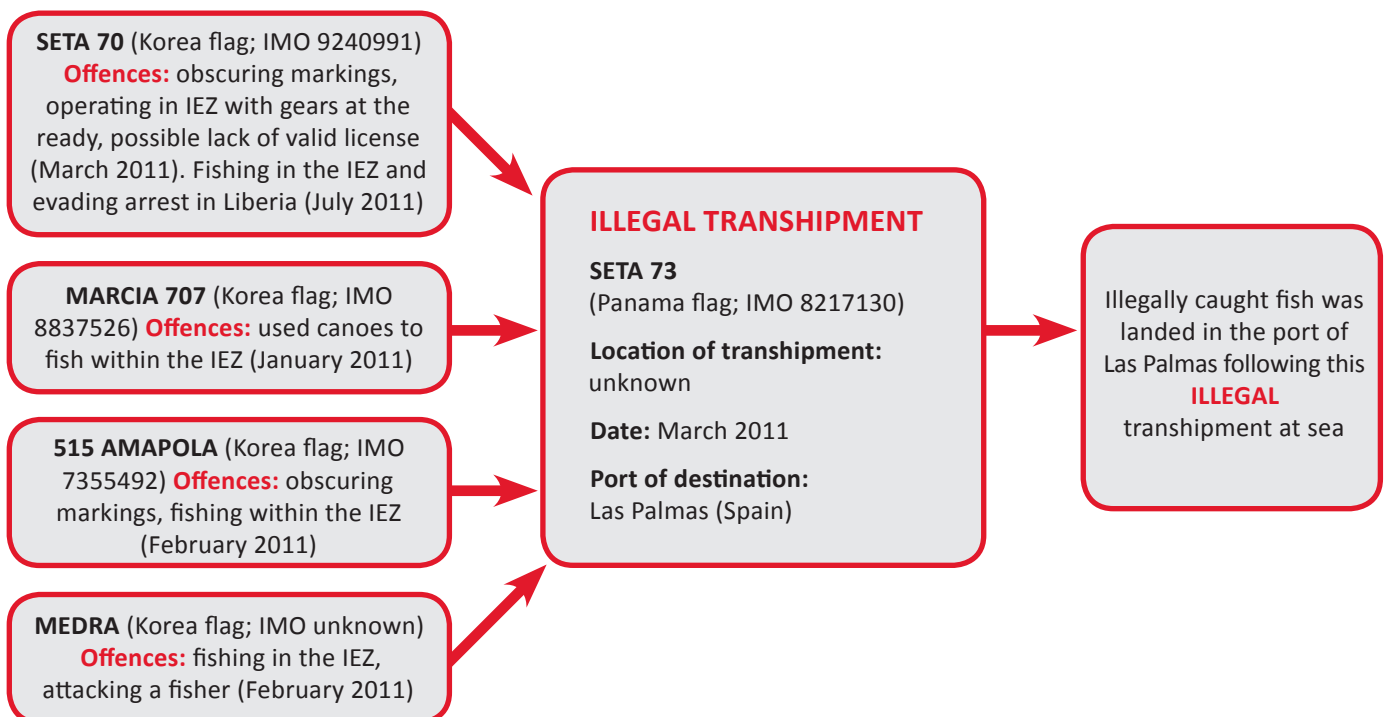


The *Seta 70* operating illegally in the Sierra Leone IEZ © EJF

ILLEGAL TRANSHIPMENT AT SEA IS WIDELY USED BY IUU FISHING VESSELS TO GAIN ACCESS TO MARKET

Transshipments that take place at sea may be unauthorised by flag and/or coastal States. IUU vessels operate at sea to avoid coastal and port State control. Illegal transshipments at sea take place in areas that coastal patrols cannot reach or in areas disputed by coastal countries, such as the maritime boundary between Guinea and Sierra Leone (this was the case, for instance, for the *Canarian Reefer*, which EJF documented transshipping in January 2012).

Detecting them is made even more difficult by the fact that many such vessels with an Automatic Identification System (AIS) and Vessel Monitoring System (VMS) switch their systems off to ensure that neither the flag nor coastal States can monitor them. This is despite the uninterrupted use of AIS by cargo vessels being required by the International Maritime Organisation¹³.





ILLEGAL TRANSHIPMENTS AT SEA AND LINKS WITH THE USE OF FLAG OF CONVENIENCE:

An EJF investigation in 2011 found that ‘Flag Brokers’ working on behalf of Flags of Convenience highlighted the low level of monitoring and regulation that such flag States offered¹⁴. In addition to reducing oversight of fishing vessels, such flag States can also have weaker monitoring of reefers that engage in transshipments at sea. One such Flag of Convenience is Panama, the *Seta 73* and *Canarian Reefer’s* flag State at the time of the transshipments documented in this briefing. Panama has registered hundreds of reefers, and in November 2012, the European Commission warned Panama that it faced blacklisting in part due to its lack of monitoring of reefers. Paragraph 232 and 242 of the decision explains Panama’s failures in relation to the *Seta 73* case¹⁵.

CONSEQUENCES OF TRANSHIPMENT AT SEA

WHERE DO YOUR FISH COME FROM? AND WHERE DO THEY GO? ISSUES OF TRACEABILITY AND TRANSPARENCY

Traceability

Illegal transshipments at sea make it difficult for end users and States with effective port measures in place to evaluate the legality of imports. Catches cannot be traced 'back to the boat' and distributors and consumers are thus unable to confidently establish the legality of seafood.

For example, the *Marampa 803*, a bottom trawler that was documented fishing illegally in the Sierra Leone IEZ in 2011 and 2012 is also understood to have engaged in illegal transshipping at sea on a regular basis with the *Seta 73*. Only certain vessels are accredited to import fish to the European Union, due to hygiene standards. These vessels must be listed in the "DG Sanco" list and are provided with a DG Sanco number. During an inspection on board the *Marampa 803*, which did not have a DG Sanco number, the Sierra Leonean boarding officer documented boxes marked with the name of the DG Sanco-certified *Hae Jeong 1*. It is suspected that the *Marampa 803* was regularly exporting illegally caught fish to the European market using at-sea transshipments to launder fish under a different identity.

More recently, in December 2012, the *Lian Run 32* was arrested by a patrol boat in Sierra Leonean waters. Onboard, there were boxes marked *Lian Run 22* and *Lian Run 23*, which suggests that the *Lian Run 32* was transshipping fish under the identity of these vessels to take advantage of the fishing licenses that they held.

In these different cases, the laundering of fish was facilitated by transshipments at sea.



The Marampa 803 fishing illegally in Sierra Leone © EJF

CONSEQUENCES FOR COASTAL COUNTRIES:

Fisheries Management

The lack of transparency associated with transshipments and IUU fishing is also a threat to effective marine conservation: as coastal countries are unable to effectively monitor the amount of fish taken from their waters and transhipped onto other vessels, it is difficult to establish the extent to which the marine resources are exploited. This means that management plans are not based on accurate data and countries are incorrectly evaluating the overall fishing effort and catch levels, as well as the impacts of fishing on sensitive marine species.

Livelihoods and Local Economies

The FAO estimates that as many as 540 million people depend on fisheries for their livelihoods. In West Africa, IUU fishing has a devastating impact on coastal fishing communities¹⁶. By destroying artisanal fishing gears, fishing destructively in inshore areas, and even attacking local fishers, IUU fishing jeopardises the livelihoods of artisanal fishers, who have few alternative sources of income.

IUU fishing vessels also benefit from lower costs, thereby severely undermining legitimate international and local fishing operators. Not only are the IUU vessels depleting the resources of coastal countries, by transshipping at sea they are avoiding port taxes and other duties and are less likely to land for local processing and/or consumption.

Food security

Food security is a pressing concern in the world's poorest areas. 1.5 billion people depend on fish for more than 20 per cent of animal protein intake¹⁷. Across West Africa, fish is a vital source of essential micro-nutrients, protein, vitamins and minerals. In Sierra Leone, for example, fish provides 64 per cent of animal protein consumed and in remote coastal communities almost all animal proteins come from fish¹⁸. The depletion of fish stocks and the failure to land fish caught by industrial vessels in West Africa affects the food security and livelihoods of coastal communities already suffering the impacts of IUU fishing.

RECOMMENDATIONS

EJF is calling for urgent action to address the issue of transhipments at sea:

- **Coastal States in FAO 34 should ban transhipments at sea and work with neighbouring countries and international partners to control their Exclusive Economic Zones (EEZ).** Whilst some ports in coastal countries cannot accommodate large reefers, such coastal countries should authorise transhipments near ports and in a position that allows easy access for port inspectors (within 1 nautical mile). Vessels that violate this ban should be added to national and regional blacklists to prevent repeated offences and deter non-compliance.
- **The EU should close access to the European market to fish that was transhipped at sea without effective monitoring.** Whilst the EU IUU Regulation restricts transhipments at sea by vessels flagged to Member States, the EU market is still open to fish that was transhipped at sea by third-country vessels. The EU should authorise consignments of fish only when it is possible to positively confirm that the transhipment was monitored by coastal States as well as the flag States of both the fishing vessel and reefer. To detect and prevent illegal transhipments at sea, the EU and EU Member States should scrutinise positional information of reefers and share information with coastal and flag States to determine whether or not appropriate permission was granted and monitoring undertaken.
- **EJF is calling on the flag States of fishing vessels and reefers to restrict them from carrying out transhipments at sea in FAO 34.** This condition should be made clear when the vessel is registered and flag States should take appropriate action when this provision is violated. Uninterrupted VMS should be mandatory on all reefers, and monitored by flag States to ensure compliance with this condition. The FAO, the EU and other organisations assessing flag State performance should take account of flag State monitoring of transhipments at sea in their assessments.



Transhipment between Yan Yu 632 and Hai Feng 827, Sierra Leone © EJF

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- ¹ Agnew DJ, Pearce J, Pramod G, Peatman T, Watson R, et al., "Estimating the Worldwide Extent of Illegal Fishing" (MRAG and University of British Columbia, 2009)
- ² Environmental Justice Foundation "All at Sea: The Abuse of Human Rights aboard Illegal Fishing Vessels" (London: 2010)
- ³ Senegalese loi N 87-27 (1987) portant Code de la pêche maritime, Article 13;
- ⁴ Sierra Leone Fisheries Act 1995, Article 17
- ⁵ EJF interviews with fishing operators in Guinea and staff in the Centre National de Surveillance et de Protection de Peche (CNSP) of Guinea, 2012 and Arrete N 0602/95/MPA/CAB of 31/1/1995, Article 16
- ⁶ "International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing" (Rome: FAO, 2001)
- ⁷ "Stopping Illegal, Unreported and Unregulated fishing" booklet, produced by the FAO as guidelines to implement the IPOA-IUU. <http://www.fao.org/docrep/005/Y3554E/y3554e01.htm>
- ⁸ Council Regulation (EC) No. 1005/2008, Article 11
- ⁹ Pacific Islands Forum for Fisheries Agency (FFA), 'Harmonised Minimum Terms and Conditions for Foreign Fishing Access as amended by FFC34' (24-28 November 1997)
- ¹⁰ "T-RFMO Transhipment Monitoring Programmes", available on the website <http://www.tuna-org.org/Documents/TRFMO2/08%20bis%20T-RFMO%20Transhipment%20Monitoring%20Programs.pdf>
- ¹¹ Further information available on the CCLAMR website
- ¹² The *Sierra Loba* is at the time of writing being investigated by the Curacao register as it seems that it did not have a license to carry fish
- ¹³ SOLAS Chapter V, Regulation 19.2 (Revised version of Chapter V, 2000)
- ¹⁴ Environmental Justice Foundation "Pirate Fishing Exposed", 2012, p. 31
- ¹⁵ European Commission Decision of 15/11/2012 on notifying the third countries that the Commission possible of being identified as non-cooperating third countries pursuant to Regulation EC 1005/2008 (EU-IUU Regulation), Paragraph 232 and 242
- ¹⁶ FAO. 2010. The State of Fisheries and Aquaculture 2010 - SOFIA, Rome, Italy, p. 7
- ¹⁷ FAO. 2010. The State of World Fisheries and Aquaculture 2010 - SOFIA, Rome, Italy, p.3.
- ¹⁸ Laurenti, G. (comp.), "1961-2007 fish and fishery products: world apparent consumption statistics based on food balance sheets" in FAO Yearbook: Fishery and Aquaculture Statistics (2008), p. 241. <http://www.fao.org/docrep/013/i1890t/i1890t.pdf>

EJF's SAVE THE SEA CAMPAIGN HAS BEEN GENEROUSLY SUPPORTED BY:

