

Off the Hook - how flags of convenience let illegal fishing go unpunished

Sophie Nodzenski



EJF report “Off the Hook”

- Report released in October 2020;
- Re-framed the issue of FoC in the fisheries sector;
- Calls on states to take a united approach and focus on transparency.

OFF THE HOOK

| How flags of convenience let
illegal fishing go unpunished



A report produced by the Environmental Justice Foundation



What is an FoC in the context of fisheries?

- FoC states allow the 'beneficial ownership and control of a vessel be elsewhere than in the country of the flag the vessel is flying';
- Overtime, has been associated with bad flag state performance (FoC= FoNC);
- Who are FoCs in fisheries?
 - Open registers (ITF) – Panama, Vanuatu;
 - States which have laxly enforced corporate laws – Ghana, Cameroon (EJF).

Rationale for flagging to an FoC

Some reasons: economic (e.g. tax), when condition of access to resources...

In essence, not the practice of registering in a foreign flag that is problematic

However, unscrupulous operators can use an FoC to receive low level of scrutiny and hide true owners of vessels

Mechanisms

⇒ To register in an FoC, you often need to create a corporate structure

⇒ Some unscrupulous operators will use this as an opportunity to create a **shell** or **front** company to hide true ownership;

Why is it problematic?



- **Difficulties to sanction properly the entity who ultimately profit from illegal fishing activities:**
 - *They cannot be identified;*
 - *Sanctions are not deterrent enough.*
- **Lack of accountability facilitated by flag-hopping between registries;**
 - *Allow to avoid detection;*
 - *Allow to avoid sanction*

Case study: Ghana

In spite of ban on foreign ownership in trawl sector, 90% of companies are owned by Chinese companies;
8 Chinese companies identified >>accounted for 75% of trawlers licensed under Ghanaian flag (end 2019)

LURONGYUANYU 910 (RongCheng Marine Fisheries CO., LTD)	Rongchang / Shandong	ZV	07/12/17	LU RONG YUAN YU 910	REONQ FISHERIES CO. LTD.	8673889	Current (June 2018)
LURONGYUANYU 918 (RongCheng Marine Fisheries CO., LTD)	Rongchang / Shandong	ZV	07/12/17	LU RONG YUAN YU 918	GAINSVILLE VENTURES LTD.	8673918	Current (June 2018)
LURONGYUANYU 919 (RongCheng Marine Fisheries CO., LTD)	Rongchang / Shandong	ZV	07/12/17	LU RONG YUAN YU 919	CONNADO ENT. LTD.	8673920	Current (June 2018)
LURONGYUANYU 920 (RongCheng Marine Fisheries CO., LTD)	Rongchang / Shandong	ZV	07/12/17	LU RONG YUAN YU 920	NYAME DOME COLDSTORE LTD.	8673932	Current (June 2018)
Lu Rong Yuan Yu 906 (RongCheng Marine Fisheries Co., Ltd)	Rongchang / Shandong	ZV	29/08/13	LU RONG YUAN YU 906 ^a	DANAC FISHERIES LTD.	8683640	Current (June 2018)

⇒ Fines to registered owners instead of ultimate owner means failure to apply deterrent sanctions

Recommendations

FoCs frustrate the efforts of well-performing states;

Ultimately, all flags operating as FoCs should remove foreign-owned fishing vessels and fish carriers altogether from their registry;

In the meantime, EJF recommends that **all flag states** have systems in place to be able to identify vessels' ultimate owners;

These should be adopted alongside measures designed to improve control over fishing vessels and strengthen fisheries legal framework.

Examples of measures

Require from all vessels registered, and as part of all applications for entering the fleet register, detail on ownership arrangements;

Coastal states should require details on the ownership systems behind vessels when reviewing fishing licence applications;

Adopt policies to require nationals to disclose beneficial interests in foreign flagged vessels in order to map where their nationals have registered the vessels they own and/or operate under FoCs;

Adopt and implement sanctions against nationals responsible for, benefiting from, supporting or engaging in IUU fishing under a third country flag to circumvent the protection provided by FoCs to IUU fishing vessel owner

Examples of measures for private sector to adopt

- Set a near-term objective to refrain from purchasing seafood transported by or caught by vessels flagged to fishing FoCs, sourcing and marketing fishery products stemming from such countries and widely communicate this action to all actors across seafood supply chains;
- In the interim, evaluate and report on the exposure of fishing FoCs to their seafood supply chains. In risk assessment exercises, assign high levels of risk to supply chains that have FoCs and take mitigating measures, such as additional audits.