



**Asia-Pacific  
Economic Cooperation**

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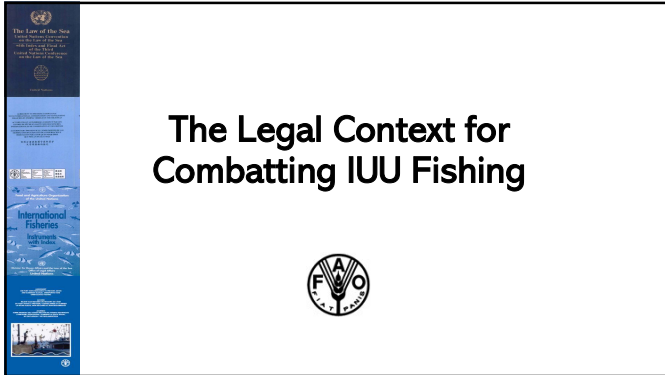
**2018/OFWG/WKSP1/004**

# **The Legal Context for Combatting Illegal, Unreported and Unregulated Fishing**


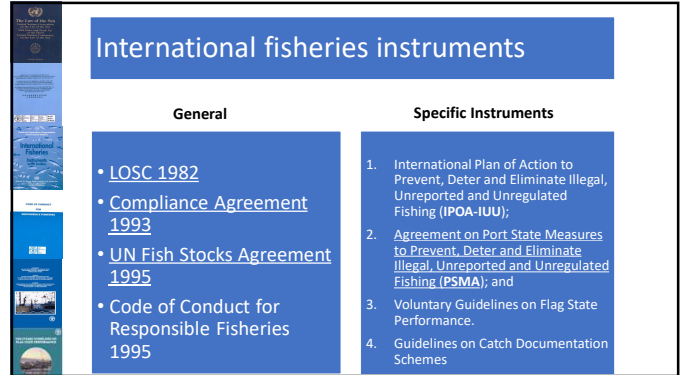
Submitted by: FAO



**Experts' Workshop on Illegal, Unreported  
and Unregulated Fishing  
Singapore  
27 April 2018**



## The Legal Context for Combatting IUU Fishing

## International fisheries instruments

General	Specific Instruments
<ul style="list-style-type: none"> <li>• <a href="#">LOSC 1982</a></li> <li>• <a href="#">Compliance Agreement 1993</a></li> <li>• <a href="#">UN Fish Stocks Agreement 1995</a></li> <li>• <a href="#">Code of Conduct for Responsible Fisheries 1995</a></li> </ul>	<ol style="list-style-type: none"> <li>1. International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (<a href="#">IPOA-IUU</a>);</li> <li>2. <a href="#">Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA)</a>, and</li> <li>3. Voluntary Guidelines on Flag State Performance.</li> <li>4. Guidelines on Catch Documentation Schemes</li> </ol>

## Description of IUU Fishing

*International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)*

**Illegal fishing** refers to activities: fishing in waters under jurisdiction of a State in contravention of national laws; in contravention of conservation and management measures; in violation of international obligations.


**Unreported fishing** refers to fishing activities: not reported or misreported in contravention of national laws; undertaken in area of competence of RFMO but not reported or misreported.

**Unregulated fishing** refers to fishing activities: by Stateless vessels, vessels of non party, fishing entity; in areas or for stocks with no applicable measures and conducted in a manner inconsistent with State responsibilities under international law.

## Description of IUU Fishing

*Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA)*:

- Article 1(e): “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as ‘IUU fishing’;



### Example: IOTC Definition of IUU Fishing

*Resolution 17/03 Establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence*

#### Definition of IUU Fishing Activities

a) engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels; or  
 b) engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable unless that vessel is flagged to a CPC; or

### Example: IOTC Definition of IUU Fishing cont'd

c) failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or  
 d) taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or  
 e) engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or

### Example: IOTC Definition of IUU Fishing cont'd

f) used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or  
 g) transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to Receive Transhipments At-Sea in the IOTC Area; or  
 h) engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or

### Example: IOTC Definition of IUU Fishing cont'd

i) engaged in fishing or fishing related activities whilst being without nationality; or  
 j) engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or  
 k) engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures.

### National laws: Definition of IUU Fishing

- (i) Reference to paragraph 3 IPOA-IUU;
- (ii) Reference to a specific RFMO definition of IUU fishing (IUU listing measure);
- (iii) Hybrid approach;
- (iv) General approach - any activity that contravenes international conservation and management measures.

### Observations

- Concept of IUU fishing is all encompassing and is being elaborated in the practice of States (directly or through RFMOs and other entities)
- Emerging requirements relating to IUU fishing (access to and use of ports; access to markets; participation in a fishery; harmful fisheries subsidies; registration of vessels etc.)
- Particular attention required when giving effect in national legislation (definition; procedures; obligations under treaties and RFMO measures)