



# Ownership of Fishing Companies, Vessels Need Greater Transparency and Accountability

Better regulation can reduce illegal activities at sea

## Overview

The commercial fishing industry brings in \$141 billion a year, but tracing where and with whom the profits end up is nearly impossible because of opaque corporate structures employed by many large-scale fishing companies.<sup>1</sup> Further, overfishing and illegal, unreported and unregulated (IUU) fishing are major threats to fisheries health worldwide, with IUU fishing costing the global economy up to \$36.4 billion annually.<sup>2</sup> But the people and companies encouraging and engaging in illegal behaviors are often obscured by similarly complex corporate and ownership schemes.

At the end of these elaborate ownership chains is the “ultimate beneficial owner” (UBO)—the person or persons who gain the most from a vessel’s operations. But the UBO is not always a vessel’s registered owner and can be difficult to identify because no international rules or requirements ensure full transparency. This is especially true for vessels that fish in areas beyond the national jurisdiction of their home country, which is increasingly the case as growing pressure on fish stocks drives many fishing vessels, from companies large and small, farther out to sea into waters beyond national jurisdiction to bring in catch and profits.

Oversight in these far high-seas areas is often patchy, making them ripe for IUU fishing. And much of this unsanctioned activity is carried out, systematically, on an industrial scale, with the profits going to owners of large corporations.<sup>3</sup> But because ownership is often obfuscated and regulatory structures are weak, on-the-water fishers are often the only people held accountable for IUU fishing, while those who orchestrate, organize and profit from it escape sanctions and fines.

With ocean health and global fisheries straining under increasing pressure, including from overfishing and the effects of climate change, ensuring that all fishing activity operates sustainably, in a transparent manner and with effective oversight—and that illegal operators are held accountable—is more important than ever. And to do that, flag States, regional fisheries management organizations (RFMOs) and other stakeholders must act to clarify the true ownership of vessels and establish an internationally agreed upon definition of ultimate beneficial ownership, strong company data collection mechanisms and appropriate penalties for those who benefit most from IUU fishing.

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## Glossary

**Beneficial ownership.** When an individual or group has a legal and monetary stake in a company but not necessarily ultimate control.

**Coastal State.** “A State whose territory is surrounded by sea, at least in some places, and consequently has jurisdiction over particular maritime areas and resources, including fishing.”<sup>4</sup>

**Corporate vehicle.** Legal entities conducting a variety of commercial activities and holding multiple assets.<sup>5</sup>

**Exclusive economic zone (EEZ).** The 200-nautical-mile areas of sea and seabed extending from the shores of coastal countries, within which, under the United Nations Convention on the Law of the Sea, those nations have sovereign rights to all natural resources and certain economic activities. Nations also exercise jurisdiction over marine research and environmental protection in their EEZs.<sup>6</sup>

**Flag State.** The country in which a vessel is registered and that, therefore, has exclusive legislative and enforcement authority over that craft when it operates on the high seas.<sup>7</sup>

**Joint venture.** A commercial enterprise undertaken collaboratively by two or more parties that otherwise retain distinct identities.<sup>8</sup>

**Legal/registered owner.** The person or entity (including a nominee) who is the direct owner of or holds title to a fishing vessel or company.<sup>9</sup>

**Regional fisheries management organization (RFMO).** An international body made up of countries that share a practical or financial interest in managing and conserving fish stocks in a particular region of the ocean.<sup>10</sup>

**Shell company.** An “incorporated company with no independent operations, significant assets, ongoing business activities or employees.”<sup>11</sup>

**Ultimate beneficial owner.** The person, persons or entity who controls and reaps the bulk of the profits from a fishing vessel or company.

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A fisherman in Phuket, Thailand, where migrant workers employed as fishers by unscrupulous vessel operators often face hazardous conditions. *Jonas Gratzner/LightRocket via Getty Images*

## What is ultimate beneficial ownership?

At the start of any vessel ownership chain, including those for fishing vessels, is the registered owner. In most cases, the registered owner—typically a person or business—is the only owner named on licensing applications and vessel registration forms. Further, the registered owner’s name is the only ownership information that fisheries authorities request that is publicly available or that is shown on commercial tracking platforms, such as IHSMarkit or MarineTraffic.

However, for many industrial-sized fishing vessels, the registered owner is not the person or entity who profits most from the vessel’s activities. Instead, a single vessel often has many layers of owners—including multiple shell companies, corporate vehicles and joint ventures—who may be located in the same country or spread throughout the world. And far at the top of the list, sits the UBO.

However, no international consensus exists regarding precisely who or what qualifies as a UBO. According to the Financial Action Task Force (FATF)—an intergovernmental watchdog group that sets standards for nations and financial institutions on countering money laundering and the financing of terrorism—a UBO should always be a human being, rather than a company, and should own or control at least 25 per cent of the company.<sup>12</sup> But not all countries use this definition. Further, countries differ on how much control or ownership a person must have to be considered a beneficial owner, with standards ranging from a single share of a company to at least 25 per cent of ownership or control over a company (the most common threshold).<sup>13</sup> These discrepancies complicate data collection efforts and investigations of alleged IUU activity.

Further, concealing ownership is easy in the absence of a uniform global system for collecting and storing UBO information from companies. Financial transparency watchdog groups, such as the FATF and the Organization for Economic Co-operation and Development, strongly recommend that countries develop a mechanism for obtaining documentation on corporations' beneficial owners, particularly the UBO, either through the banking system's due diligence process or by mandating that corporations keep and be able to promptly produce the information upon government request.

Alternatively, FATF recommends that countries collect UBO information in a national-level registry.<sup>14</sup> As of 2022, 97 countries<sup>15</sup> have some sort of registry. But these registries vary in their levels of transparency, how they define UBO and whether they require that the UBO be an individual or also allow corporations. These inconsistencies limit the registries' value, even when the data is publicly available, because they make compiling comprehensive global information difficult. Additionally, legal challenges may force changes to the availability of registry information, further constraining the registries' usefulness. For example, in November 2022, the European Court of Justice invalidated public access to UBO registries in the European Union over privacy concerns.<sup>16</sup> Although the current system has its flaws, rolling back this public access would exacerbate the problem, hindering efforts by watchdog and other civil society groups to locate and track beneficial owners and ensure that companies are complying with local and global rules.

## **Fishing is held to a lower standard than other extractive industries**

Many States do not request beneficial ownership information when a fishing vessel is registered to their flag or when issuing a license to fish in their EEZs, leaving governments largely unable to determine where profits from the vessel's activities will ultimately be realized. This in turn limits countries' ability to track the money, tax the profits and meet other key oversight and governance responsibilities.

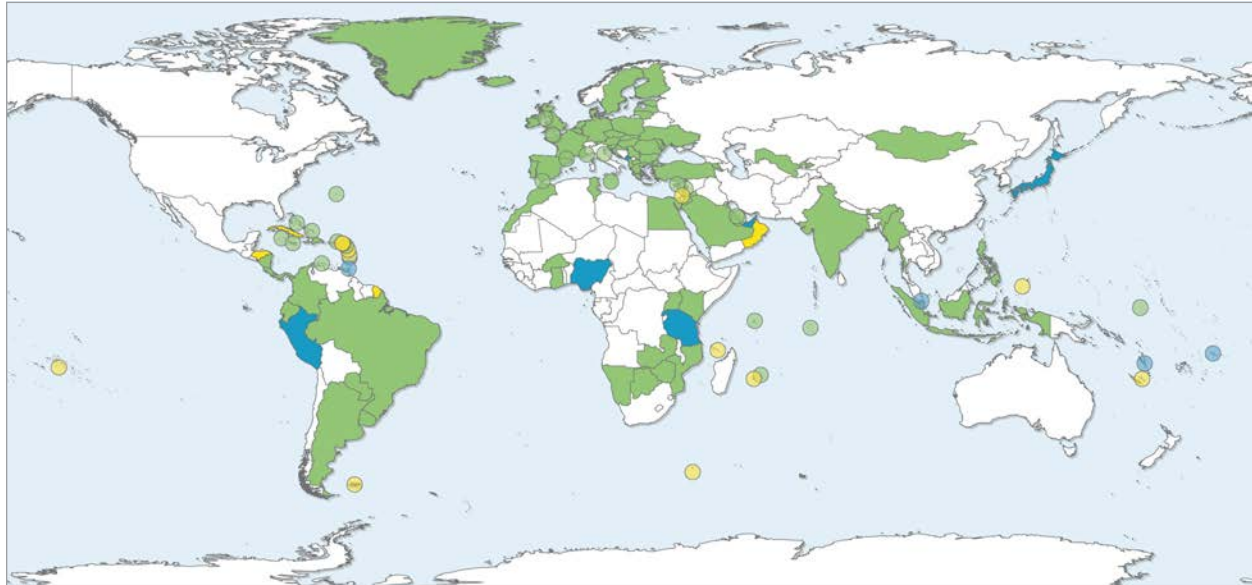
This approach differs from how governments manage other industries, such as mining for oil and gas, for which beneficial ownership registration is a crucial part of countries' industry transparency programs. For example, Papua New Guinea is in the process of collecting UBO information for companies involved in mining projects as part of its membership in the Extractives Industries Transparency Initiative (EITI), an organization dedicated to building transparent mining, oil and gas regimes. EITI member countries must publish the beneficial owners of companies that have applied for a license or signed a contract to explore for or extract minerals, oil or gas.<sup>17</sup> To meet this requirement, EITI recommends establishing a publicly available registry of relevant companies' beneficial owners.<sup>18</sup>

Creating similar mandates for fisheries has been challenging. For example, in contrast to its practice for oil and gas extraction companies, Papua New Guinea collects UBO information on only a small subset of vessels that plan to fish beyond its EEZ and does not include that information in its public registry of fishing vessels.<sup>19</sup> Further, the Papua New Guinea National Fisheries Authority does not define beneficial ownership and no nationwide definition exists, leaving vessel operators to decide what information they will provide.

Figure 1

## Fewer Than Half of Countries Worldwide Have Laws Requiring Transparency of Ultimate Beneficial Owners

National laws on UBO disclosure



□ No UBO law    ■ Complete UBO law    ■ Incomplete UBO law    ■ No data available

Note: “Complete” means a nation’s UBO law requires data collection for all companies and in all parts of the country. “Incomplete” means a nation’s law does not include all of those requirements.

Source: Tax Justice Network, “Financial Secrecy Index 2022,” <https://fsi.taxjustice.net/>; Pew’s analysis of publicly available information

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## Fishing business structures can obscure ownership

Distant water fishing (DWF) fleets, which operate on the high seas and in EEZs around the globe, pose a particular challenge to efforts to clarify and document vessel ownership. DWF fleets are complex, involving many vessels fishing in various locations; States and RFMOs often struggle to track and manage these fleets in their regions and EEZs to determine who ultimately profits from—and should be held accountable for—any illegal actions. Vessels in a DWF fleet are frequently flagged to one State but registered to an owner in another State while fishing in a third State or on the high seas. Corporate organizations running these operations can be spread over multiple jurisdictions, and a single fishing vessel often has an ownership chain containing as many as five companies or corporate entities, each associated with different legal jurisdictions, making tracking that vessel’s true ownership nearly impossible.

Further, many vessels’ ownership chains include shell companies, which are easy and inexpensive to create in many countries and which serve mainly to add complexity to and obscure other entities in the chain. Around the globe, vessel operators use these elaborate ownership structures and the lack of consistent oversight to flout national and international rules and exploit weak regulations.

## Hidden ownership enables law-breaking

Flag States play a crucial role in combating IUU fishing, because they set the operating rules for vessels flying their flag. Although many flag States have closed registries that require the registered owners of vessels flying their flag to live within their national boundaries, others have open registries that accept owners living anywhere on the planet.<sup>20</sup>

And when foreign nationals are the UBOs of vessels operating in a State's waters, the issue can grow more complex. For instance, when a fishing company wants to circumvent a closed registry, operators can employ a strategy known as "flagging in," in which a foreign-owned and operated vessel is placed in domestic vessel registries with a shell company or joint venture as the registered owner, which can frequently result in unsustainable or illegal fishing.<sup>21</sup> Flagging in is often used to extend the reach of a country's DWF fleet, particularly to places that do not allow third-party nationals to flag fishing vessels or that reserve fishing rights for their own citizens.

In other cases, operators enter a business arrangement with a vessel's registered owner in a coastal State to take advantage of registration loopholes and allow the UBO to safely reside in any country.

All too often, vessels that seek to exploit gaps in governance or legislation have a captain or fishing master of one nationality (usually indicative of the true ownership of the vessel) and a crew of another. These vessels also benefit from preferential treatment from the UBO's home country, such as subsidies for fuel and tax credits, giving them an additional advantage over actual local fishers.

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### Flagging in and Ghana: How Vessel Owners Easily Subvert Well-Intentioned Rules

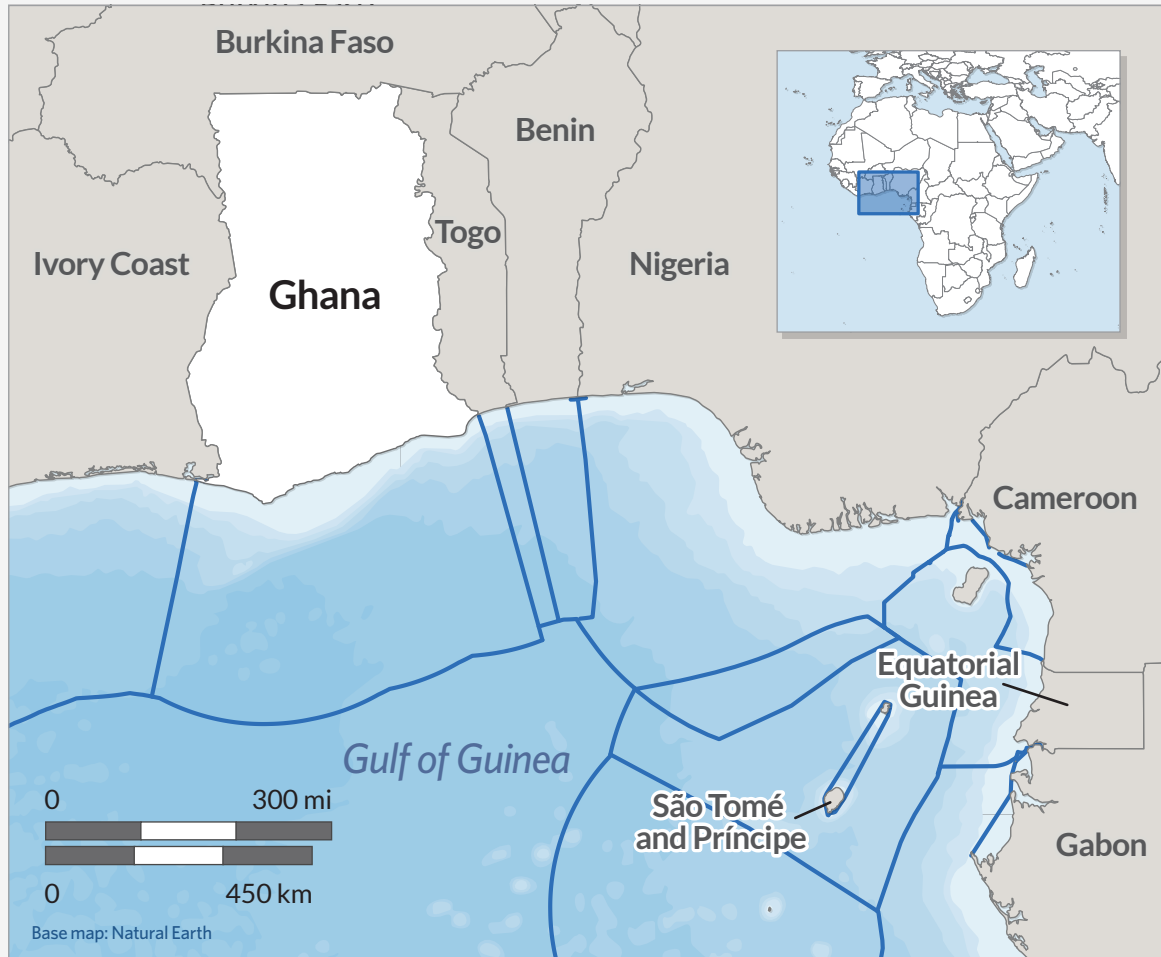
Some countries have enacted laws to preserve their fisheries for citizens. Ghana, for example, requires that fishing vessels be owned by a company or joint venture that is at least 51 per cent Ghanaian. In such developing States, disreputable vessel operators, particularly people from wealthier countries seeking profits, frequently use the practice of flagging in to undercut these local regulations.

A 2021 investigation by the Environmental Justice Foundation (EJF) found that multiple Ghanaian-flagged fishing vessels, registered to Ghanaian-owned companies, were in fact beneficially owned by companies based in China. The front companies, though created legally, had only a few employees and minimal profits.<sup>22</sup> Among these was LU RONG YUAN YU 919, whose registered owner is Connado Enterprises Ltd., a Ghanaian company with two employees and anticipated revenue of GH¢10,000 (approx. US\$870). EJF's investigation showed that the vessel's true UBO, concealed by an ownership chain that included RongCheng Marine Fishery Co. Ltd., was Shandong Bodelong Group Co. Ltd., a Chinese conglomerate with annual revenue of \$400 million and about 2,000 employees.<sup>23</sup> A loophole in a law intended to help Ghanaian citizens ultimately allows profits from fish stocks to flow to foreign nationals.

Figure 2

## Ghana Is Home to Some of West Africa’s Most Extensive Contiguous Fishing Grounds

Gulf of Guinea coastline with national borders and exclusive economic zones



□ Exclusive economic zones

Source: Marineregions.org, “Maritime Boundaries,” <https://marineregions.org/eezmapper.php>

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## Recommendations

UBO is a complex issue. Purposely building an intricate ownership structure for a fishing vessel or company is not illegal, but it can enable IUU fishing and hinder enforcement. Countries need to urgently re-evaluate how they regulate fishing vessels and vessel ownership chains in order to establish and maintain better governance of their fleets and protect fisheries resources. States can improve their vessel oversight by:

**Establishing a global definition of ultimate beneficial owner.** The FATF definition of ultimate beneficial owner is already used by many international financial and law enforcement communities and is a good starting point for worldwide transforming vessel ownership tracking. Global adoption of this definition would also align the interests of fisheries and treasury and justice ministries, which would make information-sharing easier. States should also consider including fisheries in their definition of extractive industries, which would help facilitate UBO collection in countries that already gather this information for other extractive companies. Additionally, States should establish an appropriate mechanism to balance individual privacy rights with the need for accountability to ensure that the appropriate authorities and civil society organizations can identify the UBOs of industrialized fishing vessels.

**Collecting UBO information for all fishing vessels.** All States with a fishing industry, regardless of its size, should collect UBO information when they register, flag or license a vessel. States should also have a beneficial ownership registry and make the information free and public through a national website.

**Enforcing domestic penalties for citizens engaging in or profiting from IUU fishing, no matter where it occurs.** All countries should enact laws that prohibit their citizens from benefiting from IUU fishing activity in any other country's waters or on the high seas and authorize appropriate sanctions. Some States already have such legislation. For instance, European Council Regulation 1005/2008—which lays out parameters for European-flagged fishing vessels to legally import fish into the European Union (EU)—includes provisions requiring that its nationals not profit from IUU caught fish or IUU fishing operations. And such laws work. The EU regulation led to the prosecution of a Spanish family accused of profiting from IUU fishing in the South Atlantic. Although the conviction and penalties—€25 million in fines and a clause excluding any company with a member of the family as a director from receiving state subsidies—were overturned on appeal, they nonetheless show that prosecutors and courts are willing to pursue people accused of IUU fishing in foreign waters.<sup>24</sup> A similar case is ongoing in Iceland over suspected IUU fishing activities off Namibia.<sup>25</sup>



Fishing vessels wait in the Port of Accra, Ghana. The country has some of the most extensive fishing grounds in West Africa. *Jemal Countess/Getty Images for Global Citizen*



Women in Accra, Ghana, play an important role in the processing and sale of fish, but loopholes in the country's fishing vessel ownership laws may divert profits to foreign nationals. *CRISTINA ALDEHUELA/AFP via Getty Images*

## Conclusion

Complex ownership chains involving multiple companies and nationalities can make the work of determining who benefits from a vessel's activity—and who should be held accountable if those activities violate national or international law—much harder, if not impossible, for government authorities. Far too often, UBOs go unpunished while those on the water face harsh sanctions.

The time is now to shine a bright light on the individuals and corporations controlling and profiting from IUU fishing. States must take steps to better define, collect and act on beneficial ownership information to ensure that their fishing fleets follow the law and are appropriately penalized when they do not.

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