PIRATE FISHING, SLAVERY AND THIRD PARTY RISK

by Valerie Farabee

There is growing international concern about the emergence of slavery and environmental crimes in supply chains. These are multibillion-dollar illegal trades that are attracting a great deal of attention from lawmakers and the media. For organizations with a large network of suppliers, the challenge of complying with new legislation targeting these crimes is significant. To simplify supplier due diligence and supply chain assurance, in 2015 Thomson Reuters added a new specialist research unit for World-Check focused on trafficking, which is already showing some startling results.

For example, a recent Associated Press investigation of slave-caught fish in the international food supply chain quickly drew World-Check attention to a flurry of foreign-owned companies flagged by Indonesia for illegal, unreported, and unregulated (IUU) fishing and other crimes in the Arafura Sea. A search on one of the companies that had its license revoked traced ownership back to a family-owned business in China. Another search revealed that same company owned a number of other local companies cited for IUU fishing, illegal transshipment at sea, and falsification of documents. These red flags led to an exhaustive search that has resulted in nearly 700 new profiles in World-Check related to environmental crime and forced labor.

Research that started with a single article led to a veritable sea of open-source data relating to the Arafura shelf, with network connections extending from a small region in Indonesia outward to the global supply chain.

Figure 1: Stars on the map represent known illegal fishing and labor activity.

In 2015 the Maluku chain in the Arafura Sea was a hotbed of illegal fishing, environmental crime, and slavery. The waters are vast, and the island of Benjina within the chain is an isolated spot with very little connection to the outside world. A cell phone tower was only recently installed there in early 2015. Weather and sea conditions make it difficult to get to the island for most of the year, and the isolation potentially creates a perfect environment for criminal activities, including chaining unwilling workers in a cage in the island's one office complex.

Figure 2: Exposed regions and industries from a supply chain risk standpoint, reflected in World-Check data.

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1 http://bigstory.ap.org/article/9805222a7e3e4b5dab98b81a16d3854/ap-investigation-slavery-taints-global-supply-seafood
2 http://www.thejakartapost.com/news/2015/05/02/bkpm-revoke-license-benjina-firm.html
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ARE SLAVES CATCHING THE FISH YOU BUY?
CASE STUDY 1: THIRD PARTY RISK IN THE ARAFURA SEA

Case Study: A fishing company in Indonesia is part of a large-scale ring of illegal fishing and labor crime with branches extending out to the global food supply chain.

Seven years of financial records demonstrate a long-term business relationship between an Indonesian foreign investment fishing company and a Thai shipping company that markets to international food distributors. These companies operate a large network of vessels that are crewed predominantly by unwilling or unpaid workers.\(^3\)

Fishing vessels owned by the Indonesian company are brought to the island of Benjina. There, the illegally fished catch is offloaded onto refrigerated cargo ships owned by the Thai company and bound for Thailand, where the fish are sold at market.

The fishing company regularly sent monthly invoices to the shipping company for US$500,000 for fish, one month billing them for US$1.6m.

Records show that a third of that US$1.6m was billed to a vessel that reporters later witnessed transshipping fish from slave-crewed trawlers.\(^4\)

The slave-caught fish was then tracked on the ground, via satellite, and through U.S. customs records ultimately tracing it from the trawlers in the Arafura Sea to major food distributors in Asia, the U.S., mainland Europe, and Australia.

The fishing and shipping company regularly profited from flouting local and international laws regarding labor, illegal fishing, and environmental crimes\(^5\) while pushing slave-caught food into the unwitting international food supply,\(^6\) exposing the participants of the supply chain to a number of possible legal and regulatory actions worldwide.\(^7\) Major retailers in the U.S. are currently facing class-action lawsuits for their failure to disclose slavery in their supply chains.\(^8\)

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**Case Study:** A Chinese-owned fishing company in Indonesia which is traded on an international stock exchange reaps 90% of its profits from pirate fishing in the Arafura Sea.

One of the largest global fishing companies in China is led by an individual ("the Director") who is the CEO, director, and the majority shareholder. In February 2015, a Chinese agriculture-centered, state-owned entity invested tens of millions of dollars for a stake in the company's operating company. The fishing company is also traded on a major U.S. stock exchange.

This company does 90% of its fishing in the Arafura Sea. Indonesia's Ministry of Marine Affairs and Fisheries has cited its agents and vessels a number of times for illegal fishing, transshipment at sea, foreign crew, falsification of papers, and other crimes. Indonesia fisheries law states that if a fishing company engages in IUU fishing or any other violation of its fishery law while in its Exclusive Economic Zone (EEZ), its catch and equipment are also illegal and at risk of seizure.

Through his family, the Director of this global fishing company owns hundreds of vessels facing related fines in Indonesia. All entities in Indonesia that are known to be controlled by this individual and his family are alleged to engage in illegal activity in the Arafura Sea.

Through an opaque network of shell companies, the Director owns a refrigerated cargo ship caught illegally fishing protected species, illegally transporting protected birds, sailing without a license, transshipping without a license, and illegally transshipping cargo from other fishing boats. This vessel was supplied with fish and animals by local Indonesian companies that are in actuality owned and controlled by the Director and his family.

In September 2015, Interpol issued a purple notice for this vessel, citing illegal imports and exports, transporting hammerhead sharks protected by the Convention on the International Trade of Endangered Species of Wild Flora and Fauna (CITES) from Indonesia to China, and deactivating monitoring and identification systems. The vessel has been convicted in Indonesia for the illegal fishing and transportation of CITES-protected sharks, and the company's local agents have had their business licenses revoked for illegal fishing and other crimes. To date, the company has not been charged in any official investigations for slavery or forced labor issues, yet there are a number of indicators which bear continuous monitoring: the presence of a foreign crew, transshipment at sea, and false papers.
RED FLAGS: IUU FISHING AND SLAVERY

“When you are talking about illegal fishing, you are also talking about human smuggling.”
- Gisa Komangin, from Papua New Guinea National Fisheries Authority

Foreign crew: In Indonesia the Fisheries Act makes it illegal to have a predominantly foreign crew on a fishing vessel. This protects jobs and natural resources and prevents exploitation from foreign entities. Many jurisdictions have laws requiring entities operating within regional fisheries to have local crews when fishing within an EEZ in order to get a license to operate within it.

Transshipment: The practice of unloading a catch from a fishing vessel to a refrigerated cargo ship allows the vessel to stay at sea for as long as a year. Transshipment at sea enables operators to evade regulatory authority and launder illegal catches, while also preventing crewmen who are victims of trafficking from contacting authorities or organizations to render aid. These people are kept at sea for extended periods with no access to the outside world – a key indicator of enslavement.

Falsification of papers/forged documents: False papers for the crew, indicating a name and nationality other than that of the crewman, allow vessel operators to skirt around jurisdictional regulations regarding labor laws. A fake or forged license to fish gives the operator access to an area where it wouldn’t normally be allowed, leading to overfishing and environmental degradation. False papers and forged documents are red flags indicating further investigation for possible IUU fishing and slavery is merited.

Source of labor: Below-deck workers for fishing vessels are often sourced from third-party labor brokers. A possible indicator of forced labor is migrant workers being supplied and recruited through unknown third-party crewing agencies. This adds another layer of uncertainty for companies that are sourcing goods or labor and worried about supply chain risk.

IMPLICATIONS: SUPPLY CHAIN THIRD-PARTY RISK FOR FOOD INDUSTRY, BANKS AND INSURERS

IUU fishing and other animal trafficking represent a potentially serious risk to environmental protections, sustainable fisheries, and human rights. Weak monitoring and little governmental oversight may contribute toward creating the perfect recipe for the exploitation of people and natural resources to potentially disastrous ends.

The loss of subsistence and sustenance via overfishing and environmentally harmful fishing practices depletes a critical natural resource in regions where communities depend on it for survival, and has the potential to lead to humanitarian crises that could destabilize a region.

Regulation in response to modern slavery is increasing worldwide to ensure that the entities involved are subject to the necessary penalties. The California Transparency in Supply Chain Act of 2010\(^2\)^\(^2\)\(^3\) requires all retailers and manufacturers with annual global revenues of more than $100m that do business in California to disclose information about their efforts to eradicate slavery and human trafficking from their supply chains. Recently, the UK Modern Slavery Act of 2015\(^2\)^\(^4\)\(^5\) introduced measures compelling organizations that operate entirely or partly within the UK, supply goods or services, and have a minimum annual turnover of GBP36m or more, to prepare a Slavery and Human Trafficking Statement for each financial year.

\(^2\)\(^1\)\(^2\)\(^3\)\(^{http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf}
\(^2\)\(^1\)\(^2\)\(^3\)\(^{http://www.natlawreview.com/article/uk-modern-slavery-act-2015}
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