

TRANSPARENCY IN PHILIPPINE FISHERIES GOVERNANCE



OCEANA CAMPAIGN SCOPING REPORT 2 OF 2

About MRAG Asia Pacific

MRAG Asia Pacific is an independent fisheries and aquatic resource consulting company dedicated to the sustainable use of natural resources through sound, integrated management practices and policies. We are part of the global MRAG group with sister companies in Europe, North America and the Asia Pacific.

2/29 Woodstock Rd
Toowong Qld 4066
Australia

PO Box 732
Toowong Qld 4066
Australia

P: +61 7 3371 1500
F: +61 7 3100 8035
E: info@mragasiapacific.com.au

This report was prepared by J. Lowe, D. Souter, J. Batongbacal, and R. Muallil on behalf of MRAG Asia Pacific. The views in the report represent those of the authors and do not necessarily represent the views of the above organisation. Although all reasonable efforts have been made to ensure quality, MRAG does not warrant that the information in this report is free from errors or omissions. To the extent permitted by law, MRAG does not accept any liability to any party for expenses, losses, damages and costs arising directly or indirectly from using this Report.

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Acronyms

ASEAN	Association of Southeast Asian Nations
DA	Department of Agriculture
DA-BFAR	Department of Agriculture – Bureau of Fisheries and Aquatic Resources
DILG	Department of the Interior and Local Government
DOST	Department of Science and Technology
DOST-FNRI	Department of Science and Technology – Food and Nutrition Research Institute
EEZ	Exclusive Economic Zone
EU	The European Union
FAME	Futuristic Aviation and Maritime Enterprises, Inc.
FAO	Fisheries Administrative Order
FARMC	Fisheries and Aquatic Resources Management Council
FINS	Fish in Nutrition Systems
FIP	Fishery Improvement Project
FOB	Free On-Board Value
GRT	Gross Register Tonnage
GSCFPC	General Santos City Fish Port Complex
IUU	Illegal, Unreported, and Unregulated fishing
MCS	Monitoring, Control, Surveillance
NEM	North-east Monsoon
NFPC	Navotas Fish Port Complex
NSAP	National Stock Assessment Program
NTMR	No-Take Marine Reserve
PFDA	Philippine Fisheries Development Authority
PhP	Philippine Peso
PNG	Papua New Guinea
RA	Republic Act
SWM	South-west Monsoon
UN FAO	United Nations Food and Agriculture Organisation
USA	United States of America
USAID	United States Agency for International Development
USD	United States Dollars
VMS	Vessel Monitoring System
WTO	World Trade Organisation
WWF	World Wildlife Fund

Executive Summary

BACKGROUND AND APPROACH

This report provides an overview of transparency in Philippine fisheries governance, guided by targeted analyses requested by Oceana to help inform future campaign activities in the Philippines. These analyses have largely relied upon existing government reports and peer-reviewed publications, in addition to the study team's practical experience working in the Philippines. The report serves as a complement to a separate report on *Philippine Fish Trade, Supply, and Nutrition Systems* prepared as part of the same broad study.

ENTITIES INVOLVED IN FISH-NUTRITION SYSTEMS

- At the national level, the primary government agency in charge of decision-making is the Department of Agriculture (DA) and its line agency, the Bureau of Fisheries and Aquatic Resources (DA-BFAR). While other government agencies carry out their own independent research which can sometimes be relevant to Fish in Nutrition Systems (FINS), they have no direct involvement in day-to-day fisheries policy development or decision-making.
- At the local level, local government units (LGUs) can also pass local ordinances that relate to FINS, independent of the national government. However, in general, LGUs have been relatively passive on the post-harvest portion of FINS, with effort more commonly directed towards the fisheries production side by managing their local fisheries (i.e., within 15km of the coast) autonomously. If a decision is made at the LGU level relevant to FINS, it will have generally been consulted upon with the relevant Fisheries and Aquatic Resources Management Council (FARMC). These are inter-sectoral advisory bodies comprised of members chosen by the local chief executive (e.g., mayor of the municipality). However, the role of the FARMCs in decision making differs greatly by locality; some FARMCs are strong enough to influence local decisions, while in other locations FARMCs don't exist, or are comprised of political allies that defer to the local chief executive.

TRANSPARENCY

- At the national level, the legal framework in place to promote national government transparency in terms of budgets, procurement, and decisions is relatively strong, although weaknesses exist in application. In particular, where consultation occurs (or is required) it often occurs only with invited groups, discussions leading to ultimate decisions are not publicly available, and line items on budgets are sometimes opaque or are not justifiable. The task of finding relevant data and information, including basic statistics, can also be challenging. Awareness among the public that they can have possible roles in decision- and policymaking is also often low.
- At the local level, transparency criteria were established for LGUs under the Aquino Administration, however compliance with these criteria and provisions of The Fisheries Code among LGUs is variable, and most LGUs have not fully achieved the DILG Seal of Good Housekeeping.
- To our knowledge, no LGUs have enacted their own local ordinances on transparency. Instead LGUs simply comply with the transparency laws imposed on them from the top-down (e.g., RA9184, the Full Disclosure

Policy), and have little interest/ capacity (both financial and human) to influence broader transparency legislation/policies directly.

- We note that there are no standards/ metrics/ best practices for consultations, even if they are legally required under the Local Government Code.

CONCLUSION

Our overall view of the transparency landscape in the Philippines is that the legal framework is adequate, but the practical implementation of programs and policies has been hindered by overly fragmented mandates and a lack of capacity, both human and financial.

1 Transparency in the context of FINS and fisheries

In general terms, transparency and fisheries management/ fisheries nutrition are relatively separate 'spaces' in the Philippines in relation to policy development and institutional arrangements, although clearly, they overlap in relation to the transparency and integrity of public institutions involved in fisheries management. This report provides an overview of the main obligations/arrangements in place for transparency in public governance, as well as those for fisheries management, and how they relate to each other. The report sets out the main legal and institutional obligations for transparency in the fisheries space, as well as our understanding of how things work in practice. The report also addresses specific transparency and fish in nutrition systems (FINS) issues that would help inform the possible design of an Oceana initiative in this area.

Broadly, obligations in relation to transparency in public governance, as well as frameworks for the management of fisheries, exist at three levels in the Philippines:

- Constitutional;
- National government; and
- Local Government Units (LGUs) (i.e., municipalities).

The following sections set out the main obligations, institutions, and processes in place for each.

1.1 Constitutional obligations

Following the democratic transition from the Marcos regime, the 1987 Philippine Constitution recognized the importance of civil society participation in governance, as well as the value of transparency and integrity. Amongst other provisions:

- Article XIII, Section 16 provides that "*the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged*" and that "*the State shall, by law, facilitate the establishment of adequate consultation mechanisms*"; and
- Article II, Sections 27 and 28 provide that "*the State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption*" and "*Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest*" respectively.

The Constitution provided sectoral, collective, community-based, or non-government organizations specific roles in various levels of government. The State also adopted and implemented a policy of full disclosure of all transactions involving public interest, and the public's right to information on matters of public concern. To pursue these aims, multi-sectoral consultation and advisory mechanisms were set up by the government, and laws and regulations on transparency and public disclosure of information on government transactions were promulgated.

1.2 National level arrangements

1.2.1 Main agencies involved in fisheries/FINS decision-making

The primary government agency in charge of decision-making relevant to FINS is the Department of Agriculture (DA) and its line agency, the Bureau of Fisheries and Aquatic Resources (DA-BFAR). Specifically, DA-BFAR has formal responsibility for developing, improving, managing, and conserving the country's fisheries and aquatic resources. In practice, this includes preparing development plans, licensing commercial vessels, managing imports and exports, supporting all aspects of fisheries production, post-harvest processing and marketing, and offering technical support/ coordination relating to fisheries production among fishers, co-operatives, LGUs, and FARMCs.

While other government agencies, such as the Department of Science and Technology – Food and Nutrition Research Institute (DOST-FNRI), the Philippine Council for Agriculture, Aquatic and Natural Resources Research and Development (PCAARRD), and the National Fisheries Research and Development Institute (DA-NFRDI) carry out their own independent research which can sometimes be relevant to FINS, they have no day-to-day role in fisheries and FINS decision making and policy. The regulatory agencies may ask them for input, of course, but their research agendas are often not directly tied to, or timed to provide input for, the regulatory agencies' needs for policy or their decision-making processes. Unless they are called on specifically to prepare proposals or provide data, they carry out their research agendas independently, often in anticipation of longer-term needs of the department.

Similarly, the Department of Finance - Bureau of Customs and the Department of Health - Bureau of Quarantine are passive players in FINS decision-/policy-making. They implement decisions/policies but do not often provide feedback for adjustment of those decisions/policies (and it often takes public controversy for them to take notice of FINS policies/decisions).

Other than the DA, the Department of Trade and Industry (DTI) has some influence on decisions at the national level, but largely on the trade policy and industry development side of FINS. The key decisions on supply and demand still rest with DA and DA-BFAR, as has been highlighted by recent controversies over decisions to authorize the importation of fish and sugar.

The following flow chart outlines the FINS decision making process as we understand it occurs in practice (Figure 1).

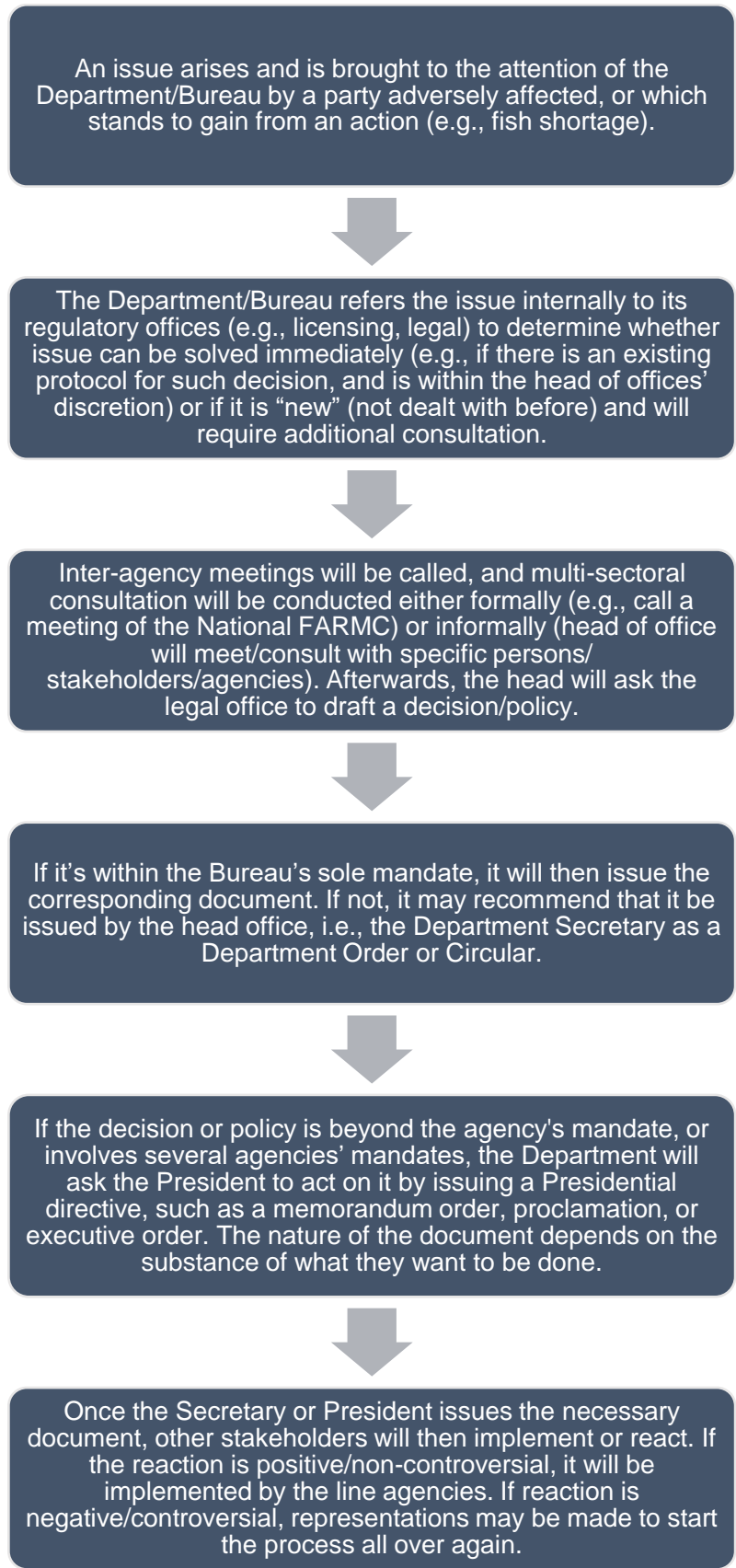


Figure 1: The generalized FINS decision-making process at the national level.

1.2.2 Arrangements for transparency

Pursuant to Section 28, Article II of the 1987 Constitution, subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest. At the Agency administrative/financial level, this is primarily achieved through a mandated 'Transparency Seal' on every government website. The requirements of the Transparency Seal are set out in Section 93 of the General Appropriations Act of FY 2012 and include:

- (i) the agency's mandates and functions, names of its officials with their position and designation, and contact information;
- (ii) annual financial reports for the last three years;
- (iii) their respective approved budgets and corresponding targets;
- (iv) major programs and projects categorized in accordance with the five key results areas under E.O. No. 43, s. 2011;
- (v) the program/project beneficiaries as identified in the applicable special provisions;
- (vi) status of implementation and program/project evaluation and/or assessment reports; and
- (vii) annual procurement plan, contracts awarded and the name of contractors/supplies/consultants.

In order of importance for FINS decisions, this includes the following government agencies:

- The DA, DA-BFAR, and DA-BFAR regional offices, which play primary roles in fisheries management;
- The DTI, which has responsibility for domestic trade and the distribution of manufactured/ processed foods; and
- The DOH – FDA which has responsibility for food safety and public health.

Plus, in some cases:

- The DENR which is concerned with marine protected areas under the National Integrated Protected Areas System; and
- The DOST, DOST-FNRI, PAACCAARD, and DA-NFRDI which contribute to FINS research periodically on a project-by-project basis.

Moreover, Section 7, Article III of the Constitution (as well as Executive Order No. 2, 2016 discussed below) provides that the right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law. The right to information provisions are typically given effect through the provisions of Executive Order No. 02 (also known as the Freedom of Information (FOI) Program) signed by President Duterte on July 23, 2016. The Executive Order established the FOI Program in the Philippines covering all government offices under the Executive Branch.

Despite these legal provisions, it is evident that important elements of fisheries transparency, such as the published lists of individuals/ corporations that have commercial fishing licenses and a list of fishery violations, are not publicly available¹.

Executive Order No. 2, 2016 also provides that the Executive Branch operationalise transparency in decision-making. This is achieved through Cabinet Clusters, which serve as the primary mechanism of the Executive Branch for directing and harmonising all efforts among the executive departments and other Government instrumentalities towards achieving the five key social goals, the first of which is “transparent, accountable, and participatory governance.” This objective falls primarily to the Philippine Government’s Good Governance and Anti-Corruption Cabinet Cluster, created by virtue of Executive Order No.

43. Members of the Cluster are:

- Secretary, Department of Budget and Management
- Secretary, Department of Finance
- Secretary, Department of the Interior and Local Government
- Secretary, Department of Justice
- Secretary, Department of Trade and Industry
- Head, Presidential Legislative Liaison Office
- Chief Presidential Legal Counsel

Moreover, the Participatory Government Cluster was mandated to enhance citizen participation in governmental processes by:

- a) formulating mechanisms to enable the public to properly understand, rationalise and implement national government programs and projects based on specific realities.
- b) strengthening coordination mechanisms to ensure effective implementation of national programs and projects in the local government grassroots level, and;
- c) proposing policies, programs and projects that would foster participatory governance and build the capacities of LGUs for such purpose.

Members of the cluster include:

- The Executive Secretary
- The Cabinet Secretary
- Head, Presidential Management Staff
- Secretary, Department of Budget and Management
- Secretary, Department of Justice
- Secretary, Department of Finance
- Secretary, Department of Trade and Industry
- Secretary, National Economic and Development Authority
- Secretary, Presidential Communications Operations Office
- Chair, Commission on Higher Education Presidential Adviser on Legislative Affairs
- Lead Convenor, National Anti-Poverty Commission

¹While records of corporate ownership are not publicly available, we do note the availability of databases, like Orbis, which provide reports on corporate structure, financial information, and for fishing companies, a list of vessels. The Orbis database is subscription-based.

As such, the government entities listed above all contribute to transparency related decisions at the national level via Cluster discussions and forthcoming recommendations to the President, considering budgetary constraints. We note however that the current President (Marcos Jr.) is not necessarily bound to follow this mechanism as precedent – noting that under the previous Duterte administration, Cluster meetings were unable to resolve many issues between Secretaries/ Departments. Ultimately, the manner by which Cabinet decisions are made depend on the way the President organizes and manages Cabinet meetings; we note that Marcos Jr. has recently issued directives which indicate a departure from the practices under Duterte.²

While transparency in the reporting of budgets and decisions across Philippine government departments is relatively good, the processes through which budgets are developed can be opaque. For example, Guinigundo (2022) reports on a number of high profile debates amongst national politicians around large unprogrammed appropriations in national budgets. While we are not aware of specific examples like this in fisheries, the sector accounts for a relatively small proportion of the national budget and may attract less attention than others.

Philippine government procurement is administered through the electronic PhilGEPS system, which serves as the primary source of information on all government procurement. The system aims to promote transparency, although this may not be achieved in all cases. For example, we note that DA-BFAR cancelled a recent tender to update the Comprehensive Post-Harvest, Marketing and Ancillary Industries Plan (CPHMAIP) on the basis that the tender process did not ensure competitive bidding³.

Specific to fisheries, data on landings are available from the PSA and DA-BFAR websites and specific questions and requests for data can be made via email, or under FOI arrangements. However, to date, the regular analysis and information made available has largely been limited to the DA-BFAR's annual publication of the Philippine Fisheries Profile report, which tends to limit available data to the national or administrative regional scales. A persistent issue is that these data lack the granularity needed for fisheries and FINS management at the local level (e.g., provincial, municipal, barangay).

Data on vessel registrations, observer monitoring reports, and fisheries enforcement are not publicly available, and it is unclear whether these data would be available from the DA-BFAR via an FOI request, with the ultimate decision falling to the FOI Decision Maker (with a rank no lower than the Director). If access is granted, our experience suggests any information provided would be at a highly aggregated level, which may not be particularly useful. With regards to fishing effort and location information, Section 127 of RA10654 states that *“Data from the vessel monitoring system or vessel monitoring measure and other related data*

² See for example, Exec. Order No. 1, Reorganizing the Office of the President including the immediate offices and agencies under or attached to it, and the Common Staff Support System; abolishing the Presidential Anti-Corruption Commission and the Office of the Cabinet Secretary. June 30, 2022. Online, <https://www.officialgazette.gov.ph/2022/06/30/executive-order-no-1-s-2022/>. Also, Exec. Order No. 11, Further streamlining the administrative structure of the Office of the President. December 29 2022. Online, <https://www.officialgazette.gov.ph/downloads/2022/12dec/20221229-EO-11-FRM.pdf>

³ <https://www.bfar.da.gov.ph/wp-content/uploads/2022/10/2022-34-RESOLUTION-DECLARING-FAILURE-OF-BIDDING.pdf>

arising therefrom shall be considered as sensitive technical information. Any unauthorized disclosure of said data including all other data referred to in Section 155 in this Code, by any person shall be penalized with imprisonment of six (6) months and one day to six (6) years, removal from office and forfeiture of all retirement benefits, where applicable". We note that it is not unusual for observer reports and VMS data to not be publicly available, as both can contain legitimately sensitive information.

Data on fish consumption and contribution to food security can be gleaned from reports of DOST-FNRI following their National Nutrition Surveys and via the e-nutrition website. However, data is not available publicly to the granular level required for FINS management at the local scale. Access to raw data on fish production or fish consumption requires MOUs to be setup with the responsible department and any results produced from analysis of the raw data generally must be communicated to the public, as outlined in the charter of each government department.

Fisheries management decisions are communicated through DA-BFAR Fishery Administrative Orders (FAOs). Proposed/ draft FAOs are normally tabled for discussion at the meetings of the National FARMC, convened by the DA Undersecretary for Fisheries and Director of the DA-BFAR. Inputs may also be solicited at the regional level through the DA-BFAR Regional Offices, but this depends on the comprehensiveness of the National FARMC or DA-BFAR consultation process. Nevertheless, FARMC discussions leading to FAOs are not publicly available. In some cases, DA-BFAR may release Administrative Circulars, press releases, and/or government officials are interviewed by traditional media (radio, TV, newspaper) which provides some insight into the discussions which lead to the management decision.

1.3 Municipal level arrangements

1.3.1 Fisheries management/FINS

At the LGU level, the Local Government Code 1991 (Republic Act No. 7160) provides for a system of decentralisation whereby local governments are given autonomy to the territorial and political subdivisions of the Philippines, enabling development as self-reliant entities.

The Code grants local governments (municipalities) the responsibility of managing municipal waters (<15km of the shore), including vessels of less than 3GT. The national government has little influence on how fishery resources are managed within municipal jurisdictions. Instead, LGUs can implement fisheries regulations at the local level through the issuance of ordinances, including the provision of fishery privileges and zoning in municipal waters. LGUs can also generate funds through local taxes or shares in revenue from the exploitation of municipal resources.

Fisheries management differs substantially between LGUs, not only because of differences in political will and capacity to implement management measures, but also because (a) the budgets of LGUs vary widely (allocation is based on the income of LGUs), and (b) LGUs have considerable freedom in interpreting the law as it relates to small-scale fisheries and municipal waters. This stems from unreliable/ limited support from the national government, weak Comprehensive Land Use Plans and no mandated Sea Use Plans, and because The Fisheries Code often provides only general guidance, rather than detailed instruction on how to implement management measures.

In our experience, progressive mayors often support programs/projects that protect local resources (particularly habitat-based management), but such programs are limited in number. Accordingly, even in ‘managed’ municipal waters, ongoing stock declines are common because the management measures of adjacent LGUs are often incompatible.

LGUs can also pass local ordinances that relate to FINS, independent of the national government. However, the establishment and development of post-harvest facilities remains a function of the national government through DA-BFAR⁴, and accordingly LGUs have been relatively passive on the post-harvest portion of FINS. More effort is commonly directed towards increasing production/ revenue via autonomous local fisheries management. If a decision is made at the LGU level relevant to FINS, it will have generally been consulted upon with the relevant FARMC. These are inter-sectoral advisory bodies comprised of members chosen by the local chief executive. The role of the FARMC in decision making differs greatly by locality - some FARMCs are strong enough to influence local decisions, while in other locations FARMCs either don’t exist or are comprised of political allies of the local chief executive and prone to his/ her influence (discussed further in 2.2 and 2.9).

1.3.2 Requirements for transparency

At the LGU level, similar transparency to that evident at the national level is required around procurement, access to information, decision making, and financial information (budget and expenditure, bids and awards for projects, procurement details), guided by the Procurement law, the Budget Operations Manual, the Citizen’s Charter, the Department of the Interior and Local Government (DILG) full disclosure portal and Fisheries Compliance Audits, among others.

In 2010, the DILG implemented the Full Disclosure Policy to increase transparency and accountability. The Full Disclosure Policy mandates all local governments to post all financial transactions and procurement at a conspicuous place – later (2012) through the Full Disclosure Policy Portal (FDPP; <http://fdpp.blgs.gov.ph/>). As of June 2012, 99% of LGUs had reportedly complied with the policy (Ong, 2012 in Lagura et al., 2017). This process enabled the public to view and better understand how LGU budgets were spent on public services, resulting in heightened citizen participation and civic engagement (Berner, 2011 in Lagura et al., 2017).

To encourage participation of LGUs with the Full-Disclosure Policy, compliance became a requirement of the Seal of Good Housekeeping and a reward is offered to compliant LGUs (Lagura et al., 2017). For non-compliance, relevant local officials can be subjected to suspension or removal from office on the grounds of negligence or dereliction of duty in accordance with section 60 of the Local Government Code (Lagura et al., 2017).

To determine compliance with provisions of The Fisheries Code and the Seal of Good Local Governance, Fisheries Compliance Audits of select LGUs in the National Capital Region were undertaken by the Regional Validation Team (comprising DILG, DA-BFAR and Pangisda Pilipinas staff) in 2022, with the hope of expanding these audits countrywide. Audit findings are publicly available⁵ and show there are several areas where LGUs remain non-

⁴ Noting that, while LGUs are not necessarily responsible for facility development, they are responsible for providing/ securing funds and the human capacity to operate post-harvest facilities on an ongoing basis.

⁵ https://drive.google.com/drive/folders/1RkGfCnsnefM5RRAcUb_fqObMOZhbFsWU

compliant (see also DILG, 2021 for self-assessments against the Fisheries Compliance Audit criteria by LGUs between 2018 and 2020).

To our knowledge, no LGUs have enacted their own local ordinances on transparency. Instead, LGUs simply comply with the transparency laws imposed on them from the top-down (e.g., RA9184, the Full Disclosure Policy) and have little interest/ capacity (both financial and human) to influence broader transparency legislation/policies directly. While many LGUs claim to be transparent, in our experience some require the constituent to jump over administrative hurdles before the requested data is handed over. For example, in some instances an LGU may only release copies of local ordinances to other government offices upon formal request or may prohibit cell phone scans and charge an exorbitant cost per page for photocopying of a local law. The practices ultimately differ between LGUs, some being quite open and others not, depending on the perceived sensitivity or importance of the information.

Castillo & Gabriel (2020) report that LGUs comply with relevant transparency laws, however some personnel still believe problems remain – for example, projects being awarded to the “elite” and “behind the scenes influence” shaping important decisions. Nevertheless, the authors conclude that this view may persist because those personnel were not informed about the decision making process, rather than their beliefs indicating corruption *per se* (Castillo & Gabriel, 2020).

2 Specific FINS/Transparency questions/issues

2.1 On which international policy/ treaty agreements and regional management bodies are the Philippines signatory parties?

ASEAN Agreement on the Conservation of Nature and Natural Resources	Asia Pacific Fishery Commission (APFIC)	Convention concerning the Protection of the World Cultural and Natural Heritage
Convention on Biological Diversity	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Convention on the Conservation of Migratory Species of Wild Animals
Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)	Convention on the International Maritime Organization	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar convention)	Food and Agriculture Organization of the United Nations Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and	Food and Agriculture Organization of the United Nations Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

	Unregulated Fishing (PSMA)	
Indian Ocean Tuna Commission	Indo-Pacific Fishery Commission	International Commission for the Conservation of Atlantic Tunas
International Convention for the Prevention of Pollution of the Sea by Oil	International Convention on Oil Pollution Preparedness, Response and Cooperation	Southeast Asian Fisheries Development Center
UNCLOS Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks	United Nations Convention on the Law of the Sea (UNCLOS)	United Nations Framework Convention on Climate Change
Western and Central Pacific Fisheries Commission	World Trade Organization (WTO) agreements	

In addition to the policy/Treaty agreements listed, we note that the Philippines is also “committed to implement the Food and Agriculture Organization’s Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing” (see DA-BFAR FAO 269, 2021), and is a cooperating non-member of the Commission for the Conservation of Southern Bluefin Tuna.

2.2 Who are the key influencers and their relationship with decision-makers?

In terms of long-term development, environmental decision-making and overall government funding is dependent upon the administration in power and their individual leadership/management styles. The considerable historic influence on Philippine environmental law and policy by the colonial "environmental" administrations of Spain and the United States, are a case in point. However, these days fisheries are not seen as a top income-generating sector of the Philippine economy and accordingly, tend to be a peripheral concern for the President.⁶

National agencies, such as the DA and their line department, DA-BFAR, are the most influential parties in the day-to-day management of fisheries resources and are primarily responsible for the design and implementation of fisheries governance laws (e.g., The Fisheries Code, FAOs). Decisions relating to fisheries are most commonly executed by the Undersecretary for Fisheries and Aquatic Resources, a position intended "solely for the

⁶ An exception, however, was when the EU threatened to impose trade sanctions on the Philippines in 2014 for perceived shortcomings in the sustainable management of fisheries. The issue prompted the issuance of Exec. Order No. 154 adopting a National Plan of Action Against IUU Fishing in 2013, and the enactment of amendments to the Fisheries Code (Rep. Act 10654) in 2014.

purpose of attending to the needs of the fishing industry".⁷ When making FINS decisions the DA and DA-BFAR can consult with the National FARMC and by that extension, fishing industry representatives on the National FARMC are somewhat influential.

Depending upon the specific FINS law or policy however, the local chief executive (e.g., city mayor) could be perceived as the most influential party. This is on account of the local chief executive's power to grant fishery licenses and privileges within municipal waters, and the fact that the Fisheries Code allocates much discretion to the office of the local chief executive. For example, The Fisheries Code does not guarantee the exclusivity of use rights in municipal waters and the local chief executive (upon authorisation by the local legislative council) has the ability to open the 10.1-15 km waters to commercial fishing by small and medium size vessels (subject to conditions). Possibly the most infamous example of a local chief executive intervening in fisheries policy was following the implementation of the first marine protected area (MPA) at Sumilon Island, Cebu in 1974. In this case, a change in political leadership and the negative influence of one town mayor resulted in the breakdown of the MPA, and a period of destructive fishing thereafter.

The latter example highlights an important reality in the Philippines - that politics cannot be separated from environmental management. It also reinforces the idea that long-term management requires solid support in the local community and the involvement on resource users in day-to-day management, in addition to ongoing institutional and legal support.

Similar to the decision-making process at the national level, the local chief executive will generally consult with the municipal FARMC when making decisions relevant to FINS. As such, **if** FARMCs are established and **if** they are organized and active, fisheries sector representatives could also be seen as influential parties in decisions made at the LGU level. Nevertheless, where municipal FARMCs have not been established or are comprised of mayoral 'yes-men', fisheries sector representatives have limited, if any, influence (see also Pomeroy and Courtney, 2018).

Nishimura (2018) surveyed mayors from 170 governments in Luzon, 67 in Visayas, and 63 in Mindanao (BARMM was not sampled due to political instability) to determine from whom they most often obtained ideas for projects in the environmental sector and infrastructure. For environmental projects, results showed that the first choice was the "mayor him/herself" (56%), followed by "barangay captains" (30.3%), and "officials in LGUs" (30.3%). Only a small number of mayors chose NGOs (12.3%), Peoples Organizations (5.7%), or businesspeople (4%) as a source of ideas for new projects. Interestingly, local residents were chosen more frequently than the latter three categories, ranking as high as 22.7% for environmental projects. This reinforces the idea that mayors value input from traditional networks of barangay captains, LGU officials, and residents, in cases where the project is not a personal priority.

Nishimura (2018) also found that mayors most often viewed local development councils (LDC)⁸ as simply an "opportunity to secure support from the people for the mayor's priority projects" (39.3%), rather than an "opportunity to obtain ideas of projects from the people of

⁷ Fisheries Code, s. 63

⁸ The LGC 1991 required every LGU to establish an LDC to reflect the opinions of NGOs and POs in the local development plans and investment programs. NGO representatives shall constitute not less than one-fourth (1/4) of the total LDC members (LGC 1991: Sec. 106-115).

NGOs or POs” (27.3%) or an “opportunity to obtain ideas of projects from the barangay captain” (25.7%).

In a separate, smaller study of transparency and accountability practices of LGUs in central Luzon⁹, LGUs and municipalities observed almost similar practices in making decisions, namely “consultation with selected personal/ stakeholders” at the LGU level and “consultation from the top to lower rank” at the municipal level (Castillo & Gabriel, 2020). “No consultation practice” was least observed among LGUs and municipalities studied by Castillo & Gabriel (2020), suggesting that consultation almost always takes place albeit generally with selected individuals/ groups.

We note that there are no standards/ metrics/ best practices for consultations, even if they are legally required under the Local Government Code.¹⁰

2.3 What is the political and civil society funding landscape on Fish in Nutrition Systems?

Funding for FINS and fisheries management at the national level is generally supplied by DA through DA-BFAR and all operating expenditures are available under the Transparency Seal of the DA-BFAR website. For the research component of FINS, DA and DOST provide funding through DA-NFRDI and DOST-FNRI, and their websites similarly provide all operating expenditures including details on FINS projects. Overall, funding from Philippine government departments has not been sufficient for fisheries management or the distribution/ post-harvest portion of FINS to date.

The Philippine government is often supported by other Governments, most notably the United States through the USAID. USAID has a long history of funding fisheries research in the Philippines, the latest iteration being the FishRight program (current budget 6.64 million USD)¹¹. Other government assistance includes Australia’s current support of 11 bilateral and regional research projects and four small projects (current funding amount 4.4 million AUD¹²), and the development of fish centres through the European Union's Mindanao Peace and Development Program (MINPAD).

Recently, the DA-BFAR also sought approval for a Fisheries and Coastal Resiliency (FishCoRe) project worth USD200 million (PHP10 billion) to be funded by the World Bank. The United Nations has also supported several projects on FINS in the Philippines via its Global Environment Facility (GEF) Small Grants Programme (SGP) and through the UN Food and Agriculture Organisation (UNFAO). In addition, the World Trade Organisation Fisheries Funding Mechanism was recently established, with the undersecretary of DA-BFAR citing the importance of the fund; “*The Philippines has undertaken initiatives and research on science-based approaches to sustainable fisheries management and will benefit from funding grants that will enhance its capacity and technical knowledge towards ensuring up-to-date resource management mechanisms*”¹³. Asian Development Bank also historically

⁹ Specifically, Cabanatuan City, Palayan City, Bongabon. Gabaldon, General Natividad, Laur, Sta. Rosa.

¹⁰ LGC 1991: Sec. 27

¹¹ See <https://foreignassistance.gov/cd/philippines/current/obligations/1>

¹² <https://www.aciar.gov.au/publication/aop2021/philippines>

¹³ https://www.wto.org/english/news_e/news22_e/fish_14jun22_e.htm

funded the Fisheries Resource Management Project, administered by DA-BFAR, but are not currently funding any programmes in the Philippines to our knowledge.

The Philippines is also supported by regional bodies, such as the Southeast Asian Fisheries Development Center (SEAFDEC), and international RFMOs for which is it a member, such as WCPFC, to improve the state of their fisheries data.

At the local level, Nishimura (2018) found that the governmental institutions or political figures that provide financial support¹⁴ for environmental projects (regardless of the amount) when revenue was not sufficient were “congresspersons” (84.0%), followed by “provincial governors” (78.9%) and “senators” (77.7%). “Congresspersons” and “provincial governors” were also chosen most often for providing “strong support” at 52.0% and 43.2%, respectively, while 42% of financial support from “senators” was classified as “little support”.

In terms of civil society, we note that independent funding for NGOs has been relatively limited in recent years due to Duterte administration’s efforts to regulate and control foreign funding provided by international sources through the Department of Foreign affairs (see ¹⁵). To date, most FINS funding from NGOs has come from WWF-Philippines and RARE Philippines, with local NGOs also contributing towards better FINS systems (discussed in 2.5) but typically doing so from a very low financial base.

2.4 Who are the funders and what is the funding landscape on transparency?

There are many funders interested in government corruption and transparency generally (e.g., Transparency International, albeit they don’t have a dedicated presence in the Philippines¹⁶), but the only entities that we are aware of that fund work on transparency relevant to Philippine fisheries specifically focus on IUU fishing (e.g., Oceana, USAID, RARE etc.) as opposed to transparency in decision making. The only exception may be the recently developed and NGO-led Coalition on Fisheries Transparency, which aims to increase transparency around vessel information and fisheries governance/ management decisions, in addition to fishing activity and IUU. This coalition however, is in its infancy and future funding for work in the Philippines is unclear externally.

Our understanding of the funding landscape for IUU projects is that, because DA-BFAR are the lead fisheries management agency and hold all fisheries related data, they are commonly involved in IUU projects. However, DA-BFAR are not a major funder of IUU related work. Instead, most IUU related funding arises from NGOs and international aid partners of intergovernmental entities to which Philippines is a member. For example, in 2020-2021, DA-BFAR, together with USAID and various field partners facilitated a series of IUU fishing assessment workshops aimed at generating a better understanding of IUU fishing in Philippine waters (DA-BFAR, 2022)¹⁷. The workshops piloted the use of the Philippine IUU Fishing Index and Threat Assessment Tool (I-FIT) to measure IUU fishing risk

¹⁴ The source of funds offered as ‘financial support’ was not reported and remains unclear.

¹⁵ <https://www.pna.gov.ph/articles/1131774>

¹⁶ <https://www.transparency.org/en/countries/philippines>

¹⁷ https://a-fishright.vev.site/iuu-fishing-national-assessment-report/?fbclid=IwAR3GimtTuJ_dTuqOFn_4D3omsj_c0JRGqmFeJiwDcckQITAMI7vXCVb_7Vw

in municipal waters. In total, 54 workshops were conducted involving 777 participants from 160 municipalities and cities in nine of the Philippines' 12 FMAs.

In addition, IUU assessment studies have historically been funded through APEC, while organisations such as the Pacific Islands Forum Fisheries Agency (FFA) and The Pew Charitable Trusts have funded IUU projects on Pacific tuna stocks, which are caught within the Philippine EEZ (e.g., MRAG Asia Pacific, 2021¹⁸). The Philippines has also received assistance from the UN FAO, supported by funding from the Government of Korea, to develop and implement port State measures and complementary instruments/ tools to support implementation of the UNFAO's Port State Measures Agreement (PSMA). The Philippines has also benefitted through its involvement in IUU-focused intergovernmental entities including the Regional Plan of Action to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in Southeast Asia (RPOA-IUU), to which the Philippines is a signatory¹⁹. Law enforcement itself is also supported by international governments, with the United States recently committing PhP 430 million to Philippine maritime law enforcement agencies²⁰, and NGOs such as Oceana and Global Fishing Watch running their own independent IUU monitoring programs using publicly available data (e.g., AIS, VIIRS). Another notable initiative is Oceans 5 ALLFISH Project, which aims to establish a broad network of small scale fisherfolk with a united common policy agenda and a strong focus on IUU measures.

2.5 Civil society organizations working on FINS or transparency – is fish on their agenda?

In the Philippines, there are many NGOs which have worked on fisheries at some point, but most have focussed on the management of fishery resources at the local level or IUU fishing. Only a select few have focused on 'Fish in Nutrition Systems', and mostly from a trade aspect (e.g., WWF-Philippines, RARE Philippines). Generally, there is a wide gap in terms of NGOs focused on fish for food security, with Tugon Kabuhayan and Tambuyog Development Centre being among the most active in this area but contributing from a relatively low financial base.

In terms of transparency programs relevant to fisheries, RARE Philippines and WWF-Philippines have been major contributors, primarily via their involvement in Fishery Improvement Projects, alongside other NGOs which have periodically focused on transparency, including the Philippine Partnership for the Development of Human Resources in Rural Areas, Bohol Integrated Development Foundation, Tambuyog Development Centre, and NGOs for Fishery Reform.

There are thousands of People Organisations (POs), but they rarely have websites and their scope, priorities, and composition are poorly documented. Nevertheless, it should be understood that there are often multiple POs which involve FINS stakeholders occurring

¹⁸ <https://ffa.int/node/2636>

¹⁹ Other members: Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Papua New Guinea, Singapore, Thailand, Timor-Leste and Vietnam.

²⁰ <https://www.cnnphilippines.com/news/2022/11/22/US-funding-maritime-law-enforcement-agencies.html>

within each municipality and contributing to decisions on fisheries management/ transparency at the LGU level. The best way to identify genuine POs for a specific locality would be to send personnel to the community directly to enquire and interact directly with them, as there have been instances in the past where local organizations have turned out to be fronts for local politicians or vested interests.

2.6 Who are the Philanthropic Stakeholders that are engaged in FINS and/ or fisheries transparency?

Bloomberg Philanthropies are currently collaborating with RARE and Oceana Philippines on various issues relating to fisheries management, including aspects relevant to FINS, under their Vibrant Oceans Initiative²¹, although they do not have a detailed investment plan for coming years available on their website. Bloomberg certainly appear to be the most active philanthropic funder in the Philippine fisheries space at the moment.

The RARE sponsored Meloy Fund offers financing and technical support for Philippine businesses committed to sustainable sourcing, such as Meliomar (a tuna trading/ processing/ export company) and Agromar Enterprises (a seaweed farming/ trading/ export company). Similarly, Citi Foundation through the Community Finance Innovation Fund has supported selected seafood businesses to expand their operations²², albeit the fund is open to all microenterprises not just those involved in seafood.

The Oak Foundation has funded Global Fishing Watch's historical work in the Philippines (and Korea, Thailand, and Taiwan), but their Environment Program Strategy 2021-2026 is extremely broad and does not mention the Philippines specifically²³. To that end, it is unclear whether they will fund fisheries related work in the future. The Walton Family and Packard Foundation have also historically funded projects focused on responsible fisheries management in SE Asia, including the Philippines, but investments are often sporadic, and the Philippines doesn't appear to be within the scope of their current activities.

We were unable to identify any additional philanthropic funding sources despite considerable time searching the internet and reviewing all philanthropic organisations which invested in agriculture and fisheries in the Philippines in recent years, as listed on the OECD statistics website²⁴.

2.7 Philippines compliance with EJF transparency principles

In 2018, the Environmental Justice Foundation (EJF) published their Charter for Transparency, outlining commitments to confirm that seafood supply chains had traceability and other systems in place to ensure they were free from IUU and human rights abuses²⁵. It is evident the Philippines is not compliant with most of the ten EJF transparency principles (Table 1).

²¹ See https://youtu.be/WHE_9U73sY0

²² See <https://microfinancecouncil.org/citi-microentrepreneurship-awards/>

²³ <https://oakfnd.org/wp-content/uploads/2021/05/Environment-Programme-Strategy.pdf>

²⁴ https://stats.oecd.org/Index.aspx?DataSetCode=DV_DCD_PPF

²⁵ <https://ejfoundation.org/resources/downloads/Transparency-report-final.pdf>

Table 1: Philippine compliance with the Environmental Justice Foundation transparency principles.

EJF principle	Philippines compliance (Compliant, semi-compliant, not compliant)	Notes
Give all vessels a unique number		Registered vessels are identified by a unique number, however many municipal fishing vessels remain unregistered.
Make vessel tracking data public		Installation of a Vessel Monitoring System (VMS) was recently made mandatory but not all commercial vessels are compliant ²⁶ . The Philippines does not share VMS data, although this is not unusual given the commercially sensitive nature of the information. Despite International Maritime Organization requirements, Automatic Identification System (AIS) data is inconsistently transmitted by large (>300GT) Philippine-flagged commercial vessels. Most Philippine vessels are small and thus not required to have AIS. This hinders capacity of independent organisations (e.g., Global Fishing Watch) to track vessels and analyse fishing activity - noting that less accurate approaches such as monitoring Visible Infrared Imaging Radiometer Suite (VIIRS) are useful for some fleets (e.g., squid).
Publish lists of fishing licences and authorisations		Lists are not published, although DA-BFAR and MARINA maintain databases of fisher (fishR) and vessel (boatR) registrations. Lists tend to be of limited scope, for example, information on beneficial ownership of fishing vessels is not available.
Publish punishments handed out for fisheries crimes		<p>Even though DA-BFAR has its own administrative adjudication system, it does not publish administrative convictions voluntarily (noting that many cases are never filled or prosecuted following an arrest). Convictions, if any, through judicial proceedings are usually not reported unless the case is very controversial and high-profile.</p> <p>We understand that a previous attempt to publish infringements via the Fisheries National Administrative Register (FNAR) was undertaken, but the datasets have since been taken offline and they remain unavailable at the time of writing. Again, the lack of information in this area is not particularly unusual amongst national fisheries administrations (in many jurisdictions the outcomes of formal prosecutions that proceed through the court system are a matter of public record, while out-of-court settlements and the details of administrative fines are not routinely made public).</p>
Ban transferring fish between boats at sea – unless carefully monitored		Domestic catch taken by Philippine vessels that operate in inter-island/ municipal waters is generally landed in port. For fleets which operate further from land, in the wider EEZ/ Kalayaan Islands, transshipment of catch to motherships/ carriers is often used by small (3-20 GRT) and medium-scale (20.1-150GT) vessels to extend their fishing time,

²⁶ Noting that the Manila-based commercial fishers associations were able to get the Court to issue a restraining order against implementation of the VMS last year. See <https://newsinfo.inquirer.net/1541690/commercial-fishing-firms-slam-bfar-ntc-for-defying-courts-halt-order>

		<p>particularly in group seine-type operations used to catch tuna. This is on account of wide use of traditional fishing boats and technologies; transshipment is key to making deep-sea operations profitable. The Philippines requires vessels conducting transshipment at sea, especially those whose fish or fish products are bound for the EU, to fill out a transshipment declaration providing details of the vessels involved, the location of the fishing ground and time and date of transshipment, the species and weight of fish transhipped, the state of the fish (fresh/chilled/frozen). The transshipment declaration is signed by the vessel master of the transporting and receiving vessel. Official regulations state that transshipments permitted within the Philippine EEZ can be periodically monitored through the DA-BFAR Observer Program (DA-BFAR FAO 199) and vessels may be inspected by the risk-based Board and Inspect Team (DA-BFAR FAO 269), but not all vessels are required to be inspected. Moreover, brailing (transfer) of fish between the fishing boat and carrier does not require a Transshipment Certificate (USAID, 2017), despite this practice generally being considered transshipment.</p> <p>Select Philippines group seine operations²⁷ are exempt from Article 29 (5) of the WCPFC Convention and can tranship group seine catch to carriers within High Seas Pocket 1²⁸, subject to 100% observer coverage. No fishing by foreign flag vessels is permitted in the Philippines EEZ, but foreign vessels can unload/ tranship within Davao port and are supposed to be monitored consistent with WCPFC, IOTC, ICCAT or CCSBT requirements and the PSMA.</p> <p>While some observer monitoring of tuna transshipments likely takes place, our on-ground experience indicates this is highly unlikely to be monitored consistent with the requirements of the Commissions. For example, the Philippines has self-assessed that capacity building is needed to meet the WCPFC's requirement that 100% observer coverage is required on purse seine vessels fishing for tuna exclusively inside national EEZs²⁹. The Philippines has also been assessed as non-compliant against WCPFC requirements to ensure all vessels fishing on the high seas in the Convention Area transmit data via VMS, as well as requirements to ensure its vessels submit reports to the Commission at least 24 hours prior to entry and no more than 6 hours prior to exiting the HSP-1 SMA³⁰.</p> <p>VMS is not installed on all vessels, most fishing vessels are small (<300GT) and are not required to use AIS, and VIRRS is only useful for fleets which use lights (e.g., squid).</p>
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²⁷ Group seine operations: purse seine/ring net boats (fish hold cap. <600mt) operating as a group, consisting of a catcher boat and its support vessels, such as ice carrier boats, ranger, and light boats – consistent with criteria in DA-BFAR FAO No. 245.

²⁸ High Seas Pocket 1: the area of the high seas bounded by the EEZs of the Federated States of Micronesia to the north and east, Republic of Palau to the west, Indonesia, and Papua New Guinea to the south with exact coordinates as used by WCPFC Vessel Monitoring System.

²⁹ WCPFC (2022). 2021 Final Compliance Monitoring Report. (<https://meetings.wcpfc.int/node/15036>)

³⁰ WCPFC (2022) *ibid*.

Set up a digital database of vessel information		DA-BFAR and MARINA maintain a vessel registration database (boatR), however the database is not publicly accessible.
Stop the use of flags of convenience for fishing vessels		The Philippines is not listed on the International Transport Workers Federation recognized Flags of Convenience registry ³¹ , noting that domestic ownership is required for commercial vessel registration (see section 2.8). While the current system of registration does allow for the acquisition of a fishing vessel outside the Philippines by a Filipino national, a prerequisite clearance must be obtained from the DA-BFAR, and this clearance may prevent the acquisition of a vessel with a history of using FOCs.
Publish details of the true owners of each vessel – who takes home the profit?		In the Philippines, owners of commercial fishing businesses must be Filipino. In our opinion, this is likely the case particularly among vessels that fish domestically, but because vessel lists are not published and the SEC doesn't publish the identities of beneficial owners, we cannot be certain. The greater area of public concern is centred around the financiers of fishing operations, which are often perceived to comprise foreign capitalists and in some cases mayors, who benefit substantially from providing capital for fishing operations (sometimes illegal) while not having to be a beneficial owner <i>per se</i> . While wild fisheries have been the targets of these financiers in the past, it is considered likely that aquaculture operations are becoming increasingly attractive because of the stable production and more predictable profits relative to wild-capture fisheries.
Punish anyone involved in illegal, unreported and unregulated fishing		Most vessels in the Philippines are unregistered and thus could be considered as technically engaging in IUU. Nevertheless, the moral argument that all citizens should have a right to food and a lack of enforcement work together to ensure that only a tiny proportion of fishing that could be considered IUU is punished. Importantly, this approach allows subsistence fishers to continue to provide food for their families.
Adopt international measures that set clear standards for fishing vessels and the trade in fisheries products		The Philippines is a signatory to UNCLOS and the UN Fish Stocks Agreement ³² , the PSMA, WTO and ASEAN, which all impose varied relevant requirements. The full extent of compliance, however, is unknown.

2.8 What is the process for listing and access to licensing and registration of vessels?

In the Philippines, all types of vessels are required to be registered and there is no separate system for the registration of fishing vessels.

Commercial fishing vessels required to be registered are those >3 GRT and bareboat chartered vessels of Philippine nationals or corporations. The basic requirements for the

³¹ <https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience>

³² Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

registration of commercial fishing vessels are domestic ownership³³ and meeting the international standards for safety³⁴ and manning of ships³⁵. Commercial fishing vessels need to be registered with both the MARINA as a seagoing vessel, and with DA-BFAR as a fishing vessel (with a separate license for the fishing gear it carries). A fishing vessel cannot be registered without clearance from DA-BFAR and this clearance involves checking whether the vessel is recorded on IUU 'blacklists' of various RFMOs.

The Local Government Code of 1991 and Executive Order No. 305 series of 2004 empower local governments to licence municipal fishing vessels and fishers. The documents required for municipal fisher vessel registration are three copies of affidavit of ownership, two coloured photos of the watercraft with the owner preferably appearing in the photo to approximate the vessel size, authenticated photocopy of the official receipt and/or clearance secured from the Philippine National Police for the engine, three copies of the notarised deed of sale or transfer, and owner's barangay clearance. A clearance certifying that the municipal fishing vessel has not been involved in any criminal offence is also required prior to registration³⁶. Thereafter, municipal fishing vessel registrations follow a similar procedure for registration as commercial fishing vessels and fishers (Figure 2).

³³ Domestic ownership is defined as ownership vested in citizens of the Philippines or corporations or associations organised under Philippine laws, at least 60 percent of the capital stock or capital of which is wholly owned by citizens of the Philippines. See MARINA MC 90, Implementing Guidelines for Vessel Registration and Documentation, 07 October 1994, Sec. III.2.

³⁴ MARINA MC 89, Sec. IV.G

³⁵ Philippines, MARINA, MC 179, Issuance of the Minimum Safe Manning Certificate for Philippine registered Ships/Fishing Vessels Operating in Philippine Waters or Temporarily Utilised in Overseas Trade/International Waters, 07 October 2002.

³⁶ Implementing Guidelines of Executive Order 305, Sec. 5.3.

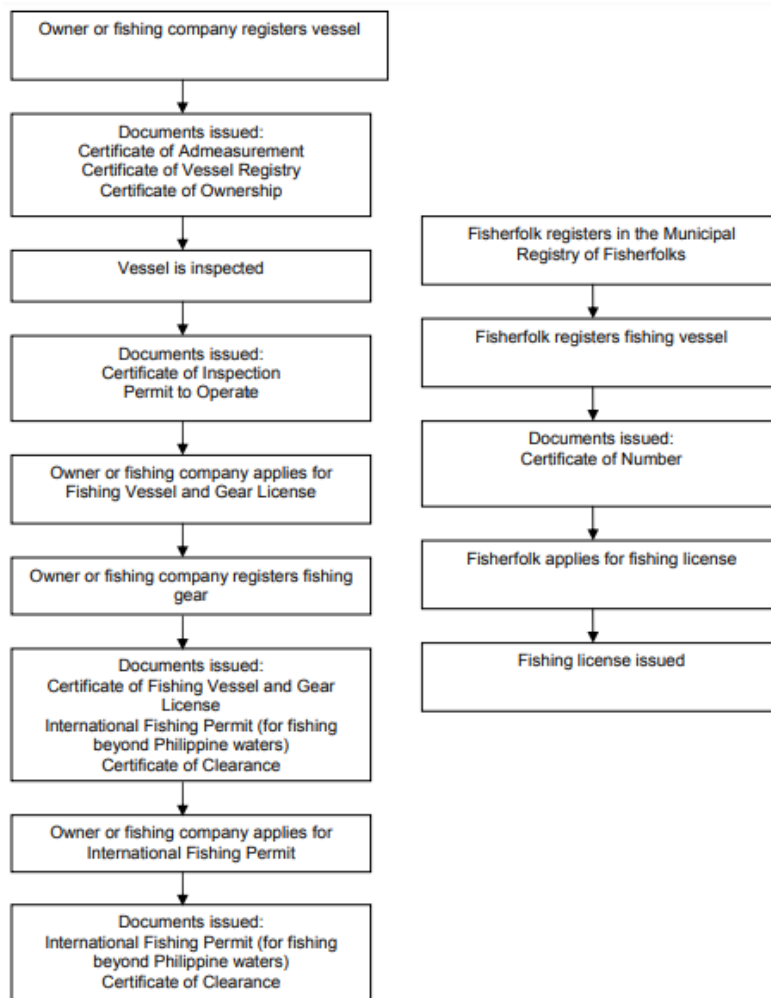


Figure 2: Registration and licencing process for commercial (left-hand column) and municipal (right-hand column) fishing vessels. Source: Palma (2006).

For commercial vessels, several certificates are issued once the registration has been approved, including the Certificate of Vessel Registry, Certificate of Ownership, Certificate of Admeasurements, and Valid Minimum Safety Manning Certificate³⁷. For municipal fishers and vessels, a Certificate of Number is issued, the LGU ensures a unique name is assigned to the vessel, and the LGU assigns an official number which corresponds to a code specifying the province which is permanently marked or plated on both sides of the vessel³⁸. The Certificate of Vessel Registry (commercial) and Certificate of Number (municipal) is valid until there is a change of ownership, vessel details (e.g., home port, engine, or name), or if the vessel is decommissioned or lost. The implementing guidelines for vessel registration also provide for cancellation of registration in cases of loss or decay of fishing vessel, involvement in a marine accident, or other lawful causes (which may include IUU; Palma, 2006).

As can be seen in Figure 2 above, municipal fishers and their vessels must be registered before acquiring fishing licenses. However, considering their small size and artisanal use, license fees tend to be nominal. In the case of commercial fishing vessels, a Certificate of

³⁷ See MARINA MC 89.

³⁸ Implementing Guidelines of Executive Order 305, Sec. 5.6.1, 7 and 8.

Vessel Registry, Certificate of Inspection, and Permit to Operate from MARINA are obtained before a Certificate of Fishing Vessel and Gear License (CFVGL) and International Fishing Permit can be acquired from DA-BFAR. We also note that commercial vessels of domestic ownership must acquire a Domestic Ship Registry Receipt (DSSR) following registration.

It should be understood that many fishers and vessels remain unregistered/ unlicensed in the Philippines, with high variation in compliance among LGUs. In our experience, the lack of registration/ licencing occurs simply because fishers do not perceive that the benefits outweigh the costs. The major costs include licence fees, time, general costs of compliance with the regulations (e.g., painting and measuring vessels etc), and the hassle required to attend government buildings to lodge documents – this is particularly so for poorer fishing communities as they often establish themselves far from the municipal centre. Some fishers may also perceive licencing/ registration as a hindrance to their fishing, especially if they know that they are not allowed to fish in other LGU's waters, and registration is the way to determine who is entitled to do so or not. We understand that registration/ licencing is not directly tied to any significant benefit or considered 'necessary' in many LGUs, given the general lack of enforcement.

2.9 What is the process for determining rights and agreements? What is the process for stakeholders to provide input?

The Philippine Fisheries Code provides the requirement for municipal fishers (Filipino citizens, single proprietorships, partnerships, corporations), accredited fisherfolk associations, fish workers (e.g., personnel working in fish processing/packing plants, aquaculture/ mariculture), crew members and operators of commercial fishing vessels (excluding engineers, radio operators, cooks) to register before participating in any fishery related activity. As such, registration is distinct from licensing under the current legal framework. Registration generally involves fishers disclosing select personal, socioeconomic, and fishing practice-related information to the local government (municipal) or national government (commercial) prior to being lawfully allowed to engage in fishing activities (this information is intended to feed policy and regulatory processes). Fishers can then apply for licences to gain access to the fishery resources and to engage in fishing activities.

The process of fisher registration is facilitated via the DA-BFAR FishR data management system. The DA-BFAR National Program Coordinator takes responsibility for the overall implementation of the FishR database, while regional directors and provincial fishery officers coordinate and oversee implementation within their respective regions and provinces. At the LGU level, the Municipal Agricultural Officer then supervises the implementation and validates entries from their constituents, the Agriculture Technician for Fisheries maintains the registry at the municipality level, and, in some municipalities, the Punong Barangay will hold assemblies periodically to facilitate fisher registration (noting this doesn't occur everywhere). The LGU is responsible for financially supporting the registrations and before LGUs can issue licenses and permits, they need to pass an ordinance covering the procedures for granting permits, licenses, and fishery privilege.

The Fisheries Code outlines that the estimation of resource capacity using maximum sustainable yield (MSY), total allowable catch (TAC) or other resource capacity indicators should form the basis for determining the number of licenses at the national level. However,

there is a lack of reliable stock assessments that determine MSY and TACs. Nevertheless, the DA and DA-BFAR maintain that the highly uncertain stock assessments conducted based on largely unreliable estimates of catch for major fishing grounds of the Philippines are adequate to determine the number of commercial fishing licences that should be issued specific to each major fishery, fishing area, vessel size category, and type of fishing gear. The logical conclusion is that the granting of fishing licenses for the commercial sector is largely speculative and that commercial fishing licences are broadly unregulated (similar to the municipal sector, which has no limits on fisher registrations or licences and instead is based on demand – i.e., the need for the individual to fish for subsistence/ livelihood). The only exception at the national level is the short-term moratorium imposed by DA-BFAR on commercial fishing registrations in 2004, which allowed for the re-evaluation of the number of licences held and the reissue/ renewal of licences deemed appropriate, citing the precautionary principle (see BFAR FAO 1223 for full details). As per the recent passage of RA 10654, moratoria on fishing licences cannot exceed 5 years.

At the national level, the rights of commercial fishers to waters >15km from shore is recognised in The Fisheries Code. The NFARMC serves as an advisory/ recommendatory body to the DA and DA-BFAR, and thus can influence the rights and agreements relating to commercial fishing. We note however, that very few DA-BFAR FAOs appear to be signed by members of the NFARMC and thus it is unclear how often they are consulted with regarding management decisions. The NFARMC itself is comprised of 15 members, including representatives from DA-BFAR, DILG, national fisherfolk organisations, the commercial, processing, and aquaculture sectors, academe, and one NGO representative (which is recommended by the fisherfolk organisations; see FAO 196; 2000 for details). Excluding representatives from DA-BFAR and DILG, other members on the NFARMC serve for 3 years without re-appointment.

At the local level, the constitutional and legal rights of municipal fishers to the priority use of municipal waters is upheld by the LGU and the associated Municipal Fisheries and Aquatic Resources Management Council (MFARMC; a multi-stakeholder body). Section 2 (c) of the Local Government Code mandates the participation of stakeholders in coastal resource management programs and projects and requires consultation between the LGU and concerned sectors of the community, NGOs, people's organizations etc. prior to the implementation of any project or program. Section 35 of the LGC specifically states that LGUs may enter into joint ventures and such other cooperative arrangements with people's organizations (an organized group of people - e.g., fishers, women, etc.) and NGOs to deliver certain basic services, engage in capacity building and livelihood projects, and to develop local enterprises designed to diversify fisheries, among others. Pomeroy & Courtney (2018) report however, that few MFARMCs are truly effective, in-part because they often fail to represent municipal fisher interests and because members can be hand-picked by LGU executives. There is little to no transparency around how members are selected for MFARMCs, with the authors suggesting the best way to uphold fisher rights in the face of opaque government procedures is to encourage full and effective participation in community governance structures (Pomeroy & Courtney, 2018).

The effectiveness of the MFARMC is important, because together with the LGU, they determine the marine tenure rights in municipal waters, specifically exclusion, access/withdrawal, management, enforcement, and alienation/transfer (as per Table 2).

Table 2: Roles and Responsibilities for marine tenure and governance institutions under the 1998 Fisheries Code. Source: Pomeroy & Courtney (2018).

Tenure Rights	Responsibilities of Devolved Tenure Governance Institutions 1998 Philippines Fisheries Code	
	Role of Local Government Unit (Municipalities & Cities)	Role of Municipal Fisheries and Aquatic Resources Management Council (MFARMC)
Exclusion Ability to exclude outside fishers from accessing their marine resources or fishing in their fishing grounds	<ul style="list-style-type: none"> Develops fisheries ordinances that determine who can fish in municipal waters 	<ul style="list-style-type: none"> Consults in the formulation of necessary mechanisms for inclusion or exclusion in limiting entry into the municipal waters that shall be most beneficial to the resident municipal fishers Recommends designation of portions of municipal waters for fishery reserves or limited use, educational, research, and/or special management purposes Consults on authorizing or permitting small and medium commercial fishing vessels to operate within the 10–15 km area from the shoreline in municipal waters
Access/withdrawal Rights to access and extract fish and other marine resources	<ul style="list-style-type: none"> Maintains a registry of municipal fishers 	<ul style="list-style-type: none"> Submits to the local government the list of priorities for consideration in determining priorities among those who will be allowed to fish in municipal waters Assists the local government in maintaining a registry of municipal fishing vessels by type of gear and other boat particulars
Management Management and maintenance practices to help sustainably use the resource and achieve other goals such as livelihood support, food security, and biodiversity conservation	<ul style="list-style-type: none"> Develops fisheries ordinances that establishes types and number of fishing gears allowed for use in municipal waters Develops CRM plans 	<ul style="list-style-type: none"> Assists in the preparation of the Village (Barangay) and Municipal Development Plan Recommends the enactment of municipal fishery ordinances Recommends the establishment of closed seasons for fisheries management Advises the village/municipal legislative council on fishery matters through its Committee on Fisheries Consults in the establishment of closed seasons for municipal waters Consults in the establishment of catch ceiling limitations in municipal waters for conservation and ecological purposes Consults on the determination of license fees for fishery activities in municipal waters
Enforcement Systems to enforce rules, resolve conflicts, and apply sanctions	<ul style="list-style-type: none"> Enforces fishing ordinances together with Bureau of Fisheries and Aquatic Resources, Philippine National Police, and other enforcement entities 	<ul style="list-style-type: none"> Assists the local government in the enforcement of fishery laws, rules, and regulations in municipal waters
Alienation/transfer Rights to sell, mortgage or lease the resources or area to others	<ul style="list-style-type: none"> Leases use rights to municipal waters 	<ul style="list-style-type: none"> Consults on the designation/establishment of zones for the construction of fish pens, fish cages, fish traps, and other structures for the culture of fish and other fishery products

If fishers felt like their preferential rights to municipal waters were abridged, they would generally notify the LGU (directly or via the FARMC) that their preferential rights have been ignored and the LGU provides a response or takes action. Under RA 8550, if the LGU doesn't respond/take action, fisherfolk may be able to file a case in court against the LGU and the concerned officials to assert their rights over municipal waters. To our knowledge this has never been attempted. Further, the concept of "preferential rights" in law appears to be implemented only as an option or prioritization, not absolute requirement.

Ultimately, although provisions of the Fisheries Code and the process of fisher licencing/ registration together provide a firm basis to secure the access rights of municipal fishers, secure access needs to be coupled with legislation that enforces the exclusion of migrant fishers from fishing in other municipalities.

Vera et al., (2007) captured the situation well, stating that:

“Although community-based coastal resource management is a popular approach, it would not be correct to say that the Philippines has a community right regime. The Fisheries Code provides several opportunities as starting points for a community rights regime such as decentralization of the jurisdiction of municipal waters to LGUs, creation of the MFARMC, prioritization of resident fishers in the use of municipal waters, recognition of traditionally marginalized sections of the fisherfolk sector (i.e., women and youth). However, there is still much more work for fisherfolk communities to realize a community-based rights regime. LGUs would need to pass fishery ordinances that would limit the pressure from migrant fishers to be able to successfully manage municipal waters. Strong fisherfolk organizations or representatives must fully engage the LGU in order to transcend the recommendatory nature of the MFARMCs. In addition, further harmonization between the functions of the BFAR, the DENR and the LGUs needs to be done in order to develop more efficient, decentralized and devolved governance systems of the coastal zone.”

2.10 What is the process for determining input & output controls? What is the process for stakeholders to provide input?

As discussed above in 2.8 and 2.9, there are arguably few controls on fishing access for the commercial or municipal sectors. There are no quotas for the municipal sector and any quotas that may be attached to individual commercial fishing licences, if deemed necessary by the DA Secretary at the time of application, are unlikely to be set at sustainable levels, albeit based on the “best available data” (RA 8550). Fisheries licensing is still used primarily as a passive revenue-generating activity, rather than a pro-active management tool.

The Fisheries Code has a long list of prohibited and approved activities based on the fishing method employed, resource exploited, location of fishery activity, and other criteria. For example, all destructive gears that damage coral reefs, seagrass, mangroves or other marine habitats became illegal, and active gears deployed by boats (e.g. trawl, purse seines, drift gill nets, longlines) were banned in municipal waters (albeit this did not extend to other active gears such as spearfishing/ diving; Selgrath et al., 2018). More recent bans on fishing gears and the implementation of local management plans have been implemented by LGUs, in consultation with FARMCs, scientists, people’s organisations, and NGOs. Specifically, LGUs can enact ordinances allowing/ banning the use of certain fishing gears either permanently or via closed seasons/ spatial closures (MPAs)³⁹. These decisions generally involve significant community consultation.

For example, despite the fact DENR is mandated to establish and manage MPAs under the NIPAS Act with assistance of a Protected Area Management Board⁴⁰, it is often the LGUs in consultation with the relevant FARMC that are the most active contributors to MPA

³⁹ Noting that an LGU cannot impose a total ban on all types of fishing activities.

⁴⁰ Comprised of representatives of the national government, local governments concerned, and the private sector or affected communities.

establishment. Stakeholders from both within the community and those outside the community (e.g., local conservation organisations, scientists) can recognise the need to establish an MPA (White et al., 2006). In the past, it was often the latter which recognised the need for MPA establishment, however, after the initial success of a few MPAs, more and more communities began discussing and initiating MPAs to protect their natural resources. Indeed, the most successful non-NIPAS marine reserves are often managed by local resource stakeholders that have received substantial mentoring and assistance to become effective MPA managers⁴¹ (e.g., White et al., 2006 and references therein). The key reasons for the success of MPAs managed by local stakeholders are two-fold. Firstly, by ensuring local participation in the planning and implementation of a reserve, self-compliance is generally higher as locals determine the rules and have a sense of ownership over the reserve. Secondly, local stakeholders have far greater awareness of the power inequalities and different interests that exist within the community - in turn this helps them identify and mediate possible sources of conflict, enabling the often-diverse community to arrive at a common vision for the MPA.

That being said, after the need for an MPA is recognised, communities often seek assistance from NGOs, universities, development projects, and government agencies to prepare for MPA establishment. In turn, it is common for such groups to consult with local resource users, who generally have a deep understanding of resource use patterns, the ecology of the target species and their habitats. For example, during the historical establishment of MPAs, trained community organisers (CO) entered the affected barangays for an extended period, usually at least 6 months, to introduce and/or develop the idea of an MPA, meet local leaders, attend meetings, and become familiar with the local culture and possible management issues (White et al., 2006). This allowed the CO to determine who were the 'winners' and 'losers' in terms of MPA establishment, as well as providing an indication of which stakeholders should comprise the local management committee for the MPA. At this point, data on resource use (e.g., fishing, tourism etc.), the environment (e.g., biodiversity, vulnerability, ecological functions) and social aspects (e.g., local acceptance, practicality of management) are also documented in order to create a profile about the proposed management site and scope any additional baseline studies required. From there, a local committee⁴² committed to planning, implementing, and managing the MPA is formed and must be recognised by the LGU to be effective (White et al., 2006).

Such committees differ in stakeholder composition depending on the goal of MPA establishment (e.g., a whale shark reserve for tourism vs. a no-take marine reserve to relieve fishing pressure), but most MPAs are designed to reduce fishing pressure in a certain area and thus involve fishers in some aspect of their design/ implementation. Selgrath et al., (2018) examined proxies for governance participation from 1998 onwards (i.e., post-implementation of The Fisheries Code) and found that 74% of villages had established fishers' organizations and 19% of fishers were members of fishers' organizations, albeit with significant variation in participation (0–80%) across the study sites. 70% of study villages

⁴¹ Noting that the ultimate success of each individual MPA is also dependent on its physical design (placement, size, proximity to other MPAs etc.) and ecological characteristics (e.g., habitat, fish assemblage, vulnerability, connectivity etc.), in addition to its management.

⁴² Often referred to as a Sanctuary Management Committee or Marine Management Committee.

had locally implemented MPAs and all but one MPA were established after 1998, the first year that local governments had the autonomy to establish MPAs.

As discussed in section 2.2, the Sumilon Island example shows how political changes at the local level can rapidly change the status of a reserve and, depending on the political decision maker, there may be little consultation or consultation only with selected parties when making such a decision.

2.11 Fisheries financing and service providers (e.g., insurance and loans): who provides and are standards applied to mitigate risk from illegal fishing?

Illegal fishing refers to fishing activities that are (1) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations; (2) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or (3) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization (FAO, 2001).

By this definition, illegal fishing is extremely common in the Philippines, with the most common offenses being a lack of fisher/ vessel registration and licencing, use of prohibited gears, and entrance into prohibited areas (e.g., MPAs, commercial vessels in municipal waters). It was estimated that 27-40 % of Philippine domestic catch in 2019 came from illegal fishing (Coastal Resources Centre, 2021), and due to a lack of sufficient MCS measures this is almost certainly an underestimate.

In 2021, the UN FAO also surveyed 100 small-scale fishers⁴³, 13 fisher organisations, 52 financial institutions, and 17 insurance providers to develop a policy brief on financing small scale fisheries in the Philippines (Badiola et al., 2021). Overall, 45 % of respondents reported to have access to credit services for fishing operations (Badiola et al., 2021).

Given almost half of small-scale fishers have access to credit and up to 40% of landings are estimated to have been sourced from IUU activities, it is highly likely that some of the vessels funded by credit obtained from financial institutions engage in IUU activity at some point. The UN FAO recommended several policies thought to increase the access of small-scale fishers and their organizations to financial and insurance services. One recommendation was to improve the understanding of SSF by financial institutions and the *“relevant national regulations/policies, to ensure that unsustainable and illegal fishing practices are not supported”*.

While financial institutions do apply standards to loans for fishing vessels/ businesses in order to mitigate illegal fishing (e.g., requiring evidence of ownership; the bill of sale and proof of payment for vessels/ gears; authority to acquire ship from MARINA; vessel and gear registration with DA-BFAR; inspection/ valuation by the bank etc.) banks have little oversight

⁴³ Noting that ‘small-scale fishers’ includes owners or operators of fishponds of 5 hectares or less, fish cages with an area of 400m² or less, and individuals engaged in catching aquatic resources using traps and other devices, in aquaculture, and in the processing and trading of aquatic products, in addition to municipal fishers (as per Administrative Order No. 21, 2011)

of actual fishing operations and, given the lack of MCS measures, arguably neither do DA-BFAR. Nevertheless, fishing vessels with a history of IUU offences/ using Flags of Convenience would be scrutinised by DA-BFAR when determining whether to grant registration/ a fishing licence (see section 2.8) and by that extension fishers/ fishing operations are unlikely to be provided with loans/ insurance from traditional financial institutions if DA-BFAR do not grant registration/ a licence.

It should be understood however, that many municipal and small- to medium-scale commercial fishers are financed by informal local arrangements, rather than via formal financial institutions. In fact, financial services are not easily accessible in many parts of the Philippines, with less than half (40%) of SSF respondents surveyed by the UN FAO having access to such facilities and only about 20% saving their money at formal financial institutions (Badiola et al., 2021). Instead, many fishers obtain funds from groups of local elites/patrons who control trade and provide credit for fishing, as well as for household needs such as education and health. For example, in the commercial fishing industry, fish workers are commonly indebted to the vessel owner, who allows them to borrow money or goods for their subsistence and in return requires the fishers to work for the owner, receiving only a small share in the catch as compensation, minus payments for any additional loans extended to them or their family. These common but informal financing mechanisms certainly do not consider IUU when providing credit and instead the provision of credit is determined based on the ability to repay, which can be enhanced by engaging in IUU.

3 Critical analysis

Our overall view of the FINS and transparency landscape in the Philippines is that the legal framework is adequate, but the practical implementation of programs and policies has been hindered by overly fragmented mandates and a lack of capacity, both human and financial. These issues impact FINS at all levels of government. For example, the DA-BFAR has overall responsibility for securing the contribution of fisheries to food security but lacks the financial and technical capacity to undertake the role effectively. LGUs are supposed to coordinate with private sector and national government regarding the establishment of post-harvest facilities, but they commonly lack the funds or the human capacity to operate such facilities. Fisherfolk require financial support to establish post-harvest facilities and better contribute to FINS, but since they are often poor themselves, few financial institutions would provide them with credit.

The effectiveness of fisheries management therefore largely depends on the influence, will, and capacity of the LGU administration and its leaders. While some progress can be made by engaging adjacent LGUs in the FMA process, the primary objective should be to develop a strong, centralized system of fisheries management at the national level while engaging and aligning the responses of local and community-based organizations to fisheries issues. In turn, a national governing agency that has the capacity to ensure enforcement of important policies at the local level is required.

While weak governance and corruption has the potential to derail efforts to improve the practical implementation of FINS policies and programs, the level of corruption in the Philippines is thought to have generally declined through time. This is particularly the case in recent years for the commercial fisheries sector due to the number of improvements in traceability that came as a result of the EU-issued yellow card, in addition to the SEC's requirements for both domestic and foreign owned business to declare their beneficial owners in 2019/ 2020. While we understand that 'patronage politics' remains quite prevalent at the LGU level, providing a more detailed overview of corruption across LGUs is difficult, as corruption can occur anywhere.

As discussed in previous sections, the consultative processes at the LGU level are oftentimes not sufficient, with FARMCs either not established or comprising unrepresentative members handpicked by the mayor. Moreover, while the Local Government Code requires consultation, there are no standards/metrics/best practices against which to gauge effectiveness or comprehensiveness, or to guide LGUs in consultations.

There is a large gap in the market in terms of parties funding programs and policies in the FINS and transparency space. Many government entities, NGOs, POs, and philanthropic organisations have been involved on the fisheries management and IUU, and a limited number have been involved in fish trade, but few, if any, have focussed on the post-harvest portion of fish-nutrition systems specifically.

Accordingly, there are many campaign activities which appear beneficial in terms of improving the contribution of fish to food security. Our initial suggestion is that by establishing an alliance of fisherfolk in the location where the contribution of fish to food security could be improved, and working with the LGU/s, POs and other NGOs in that region, issues relating to fisheries management, habitat protection, licencing, trade, and local nutrition could be simultaneously addressed in an efficient and collaborative manner.

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