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COMBATING
WILDLIFE AND FOREST CRIME
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ASEAN Regional Forum

WORKSHOP ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Fisheries Crime and Transnational Organized Crime

Bali (Indonesia) – 20th April 2016



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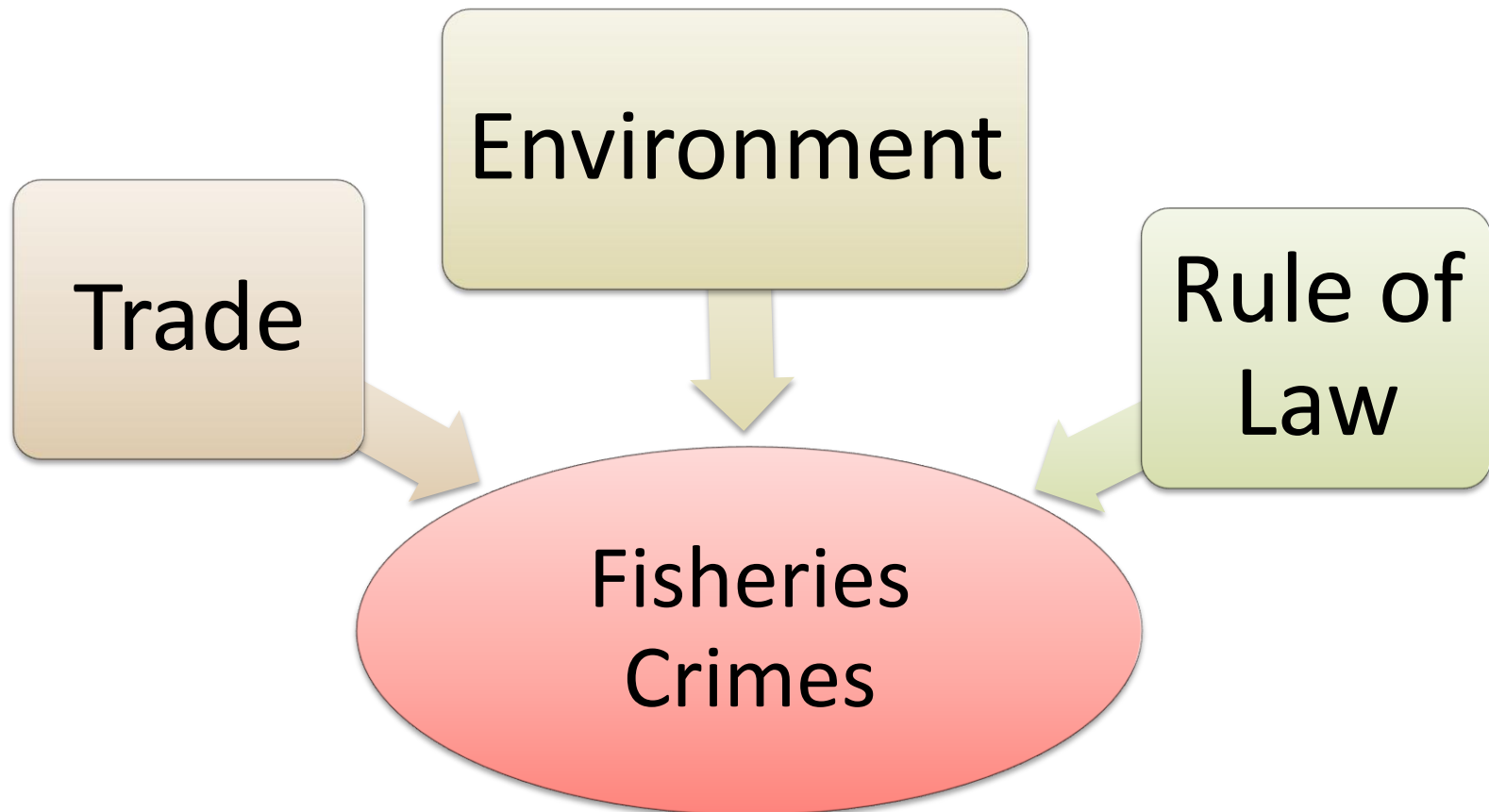
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A multi-sectorial problem





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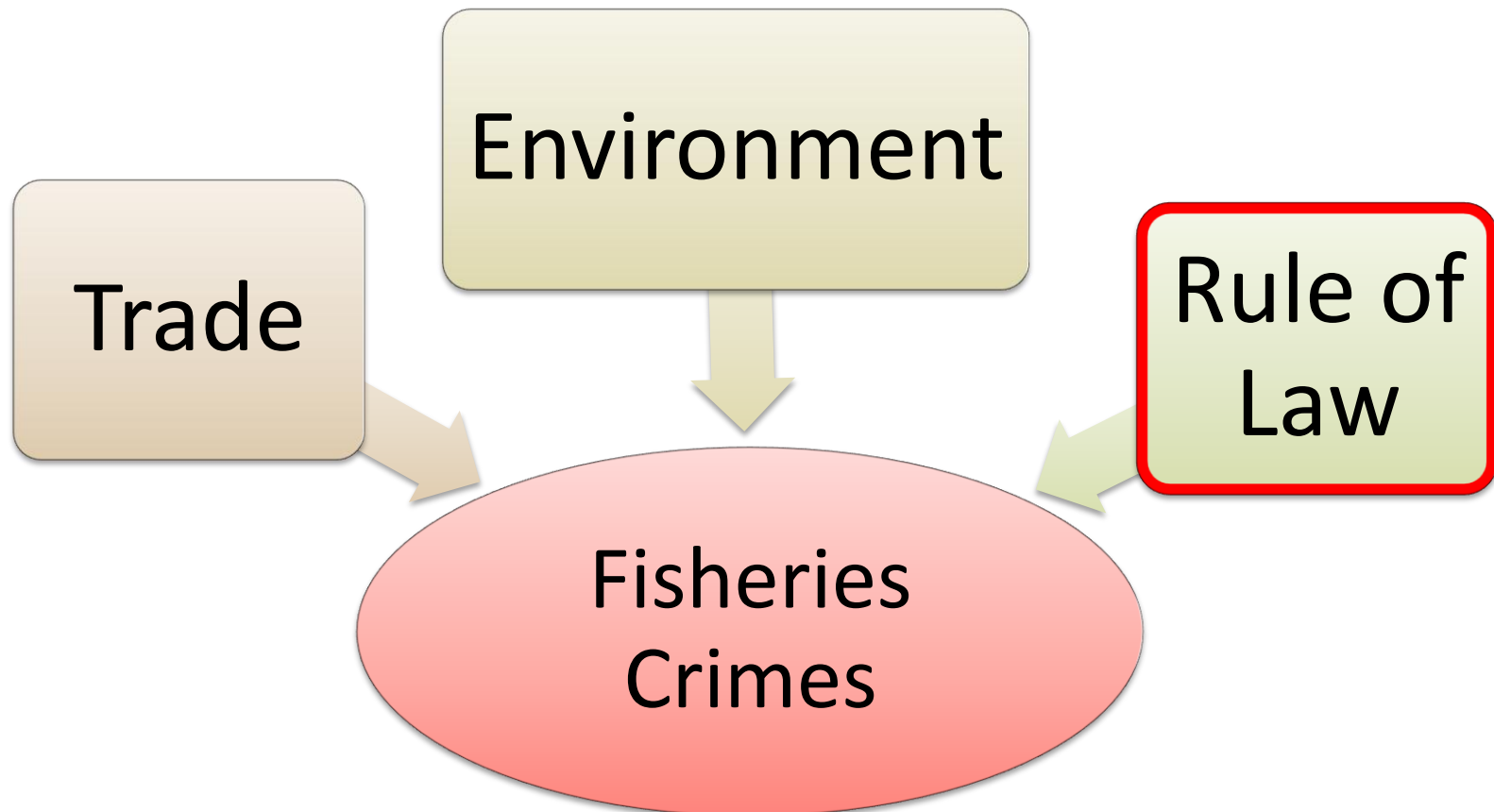
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A multi-sectorial problem





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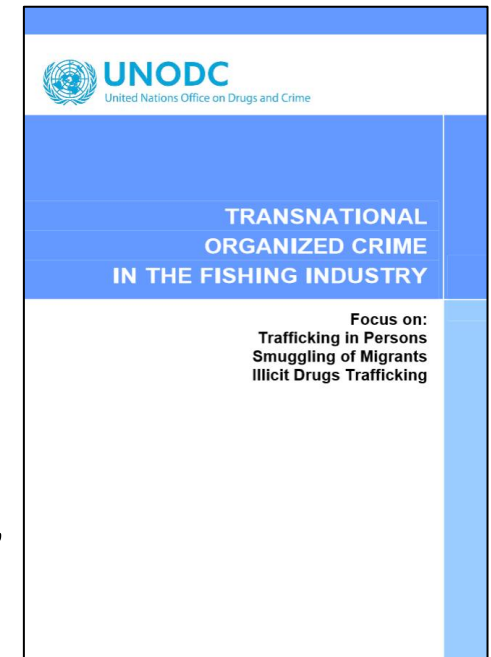
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Non-traditional security threats

- Fishing industry highly vulnerable to transnational organized crime
- Human trafficking, such as forced and child labour
- Key role of corruption to obtain rights, permits, licences, etc.
- Fishing vessels are used for migrants smuggling, drug trafficking, acts of terrorism, traffic in weapons
- Transnational organized crime groups involved in high value – low volume illegal harvesting of fish species





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UN Framework on Transnational Organized Crime



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Transnational Organized Crime

- A structured group of **three or more persons**
- Acting together with the aim of committing one or more **serious crime**
- In order to obtain **financial or material benefit**
- These crimes are planned and/or committed in **more than one country**

Serious Crime : offence punishable by a maximum deprivation of liberty of at least 4 years or more

[illegible]



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Criminalization in UNTOC

- Convention requires States Parties to have four basic offences (Art 34.2):
 1. Participation in an organized criminal group (Art. 5)
 2. Laundering of proceeds of crime (Art. 6)*
 3. Corruption (Art. 8)*
 4. Obstruction of justice (Art. 23)
- All of the above to be criminalized even if the offence is not Transnational and/or Organized (Art.34.2) (*except art. 5*)

* Obligation to provide copy of the Law to the Secretary-General of the UN



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Scope of application

- It applies to the “prevention, investigation and prosecution” of
 - **Offences established by the convention**
 - **Other serious crimes**
 - **Protocol offences**
- Only when:
 - **transnational in nature**
 - an **organized criminal group** is involved



Jurisdiction (Art. 15)

- **Mandatory/compulsory jurisdiction when:**
 - offences are committed on a State's territory, vessel or aircraft
 - where **offender is not extradited** because of nationality
- **Optional jurisdiction**
 - Offender or victim are nationals of the State
 - Stateless offender who resides in the State
 - participating in organized criminal group with a view to committing serious crime in the State
 - any other circumstances set by domestic law

Even if the offence is NOT committed in the territory of the State



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Expert Group Meeting on

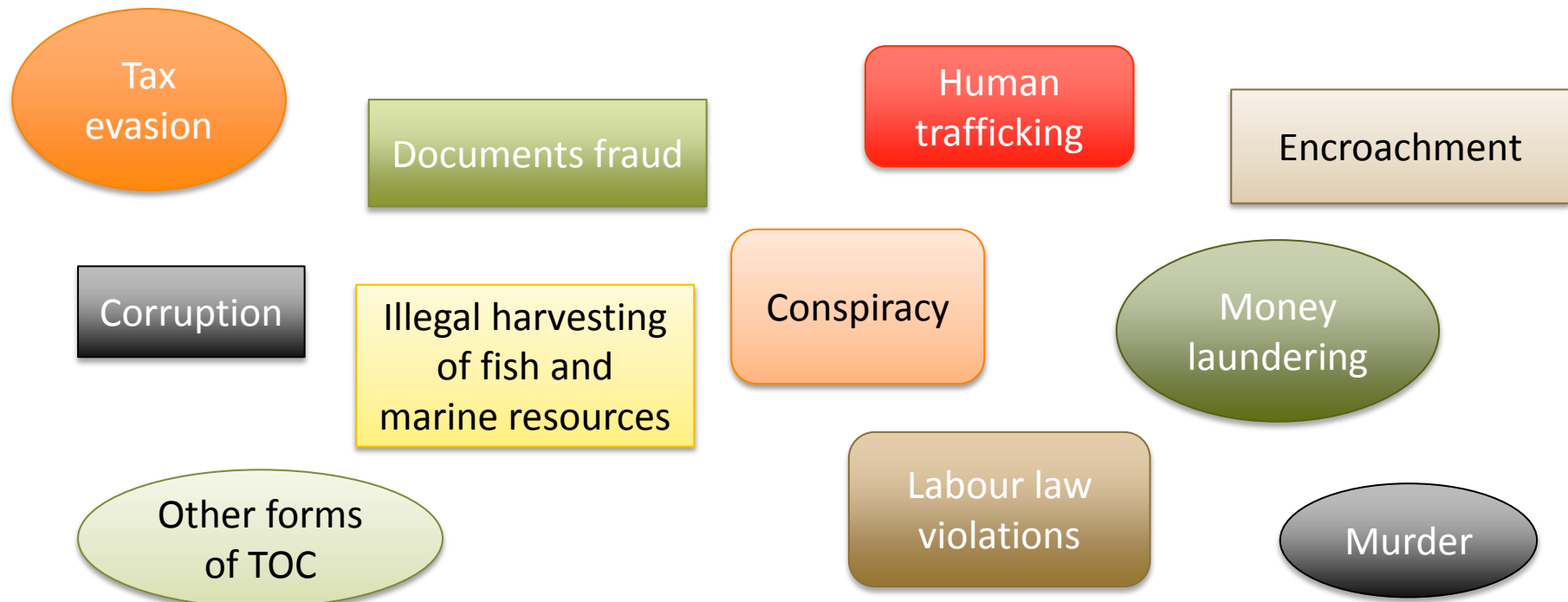
Fisheries Crime

DRAFT CONFERENCE ROOM PAPER FOR THE COMMISSION
ON CRIME PREVENTION AND CRIMINAL JUSTICE, 2016



General premises to fisheries crimes

- Looking at all serious offences within the fisheries resources sector, along the entire supply and value chain
- Fisheries crime is not associated with fishing only





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Laws and policies

- Review national legal framework to criminalize key offences related to fisheries crimes
- Adopt commensurate penalties (e.g. 4 years threshold)
- Useful to adopt US Lacey Act-like provisions*
- Avoid disproportionate measures that would impact on small scale fishers

* i.e. criminalizing the import, distribution, possession of natural resources captured against the domestic law of originating or exporting State



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Jurisdiction

- Exercise full range of national jurisdictions based on:
 - Nationality of human trafficking victims
 - Territory where the vessel operates
 - Residence of vessel beneficial owner
 - Country where corruption money originates or ends up to
 - Market/destination countries of illegally harvested resources



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Law Enforcement tools

- Greater exchange of information (i.e. vessels docs, log books, licensing, export/import, etc)
- Use of existing platform, such as INTERPOL and WCO
- Emphasis on financial and AML investigations
- Use of UNTOC as basis for Mutual Legal Assistance and evidence exchange
- Promotion of cross-disciplinary multi-agency task teams



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Criminal investigations

- Recognizing that administrative violations may be linked to broader criminal activities
- It is important to combine the use of administrative laws (e.g. fishery laws) with a broad range of others laws:
 - Criminal codes
 - Tax legislations
 - Anti-corruption laws
 - Labor laws
 - Organized crime laws



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Awareness raising and training

- Need to raise awareness on the seriousness of fisheries crimes at political level and in international fora
- Sensitize judges and prosecutors on the seriousness of the crime beyond administrative laws
- Support investigative authorities (especially police) to make use of the “full range of the law”



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Conclusions

- The fishery resources sector is highly exposed to risks of Transnational Organize Crimes
- The protection of this sector requires responses that transcend the mere use of administrative and regulatory instruments
- A criminal justice based approach is necessary to combat forms of TOC within the fishery industry
- A number of legal and policy reforms are necessary to mount effective response at national, regional and global level



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Thank you for your attention!



Global Programme for Combating Wildlife and Forest Crime

United Nations Office on Drugs and Crime

Contact us: wlfcr@unodc.org

Visit our website : <http://www.unodc.org/unodc/en/wildlife-and-forest-crime>