



## Transparency in fisheries governance: Achievements to date and challenges ahead

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### ABSTRACT

Globally, fisheries continue to face a range of pressures that can be addressed by more effective national, regional, and international fisheries governance. Increasing the transparency of decision-making and implementation of adopted measures is widely recognised as forming part of the solution to this challenge. While transparency has emerged as a good governance principle in general, it is embedded in specific international law obligations when it comes to fisheries. For fisheries management, it is crucial that relevant data be available to inform decisions and that the process be inclusive. Ensuring inclusive decision-making relies not only on the participation of outsiders but also on the equality of States in the negotiations leading to a decision. Furthermore, transparency serves important functions in relation to compliance and accountability: putting information on vessels, States, international organisations or even private actors in the public domain enables scrutiny, might encourage compliance, and builds trust in the regime. Several lessons for fisheries management arise from the contributions to this special issue of *Marine Policy*. First, the positive impact of transparency ought not to be accepted without a thorough examination of its implementation in practice. Second, transparency in a substantive sense does not mean simply the availability of data; it must also focus on information of high quality and usability for specific stakeholders. Finally, keeping in mind the ultimate purpose of sustainability, transparency is but one stone in the larger process of building legitimate and effective regimes for managing shared resources.

### 1. Introduction

In Sustainable Development Goal (SDG) 14, the international community pledged '[b]y 2020, [to] effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics' [1, target 14.4]. This target has not yet been achieved.

Globally, fisheries continue to face a range of pressures. These can be addressed, at least in part, by more effective national, regional, and international fisheries governance. Increasing the transparency of decision-making and implementation of adopted measures is widely recognised as forming part of the solution to this challenge, both for fisheries in particular [2] and for marine governance more broadly [3]. Improving transparency is a mantra for many governments more

generally, not least because of the apparent link between transparency and accountability [4–6]. However, although there has been growing research interest in transparency, including regional fisheries management organisation (RFMO) transparency [7–10], the connections between increased openness and fisheries governance performance have not been comprehensively assessed, neither conceptually nor empirically.

This article, and companion contributions in this special issue of *Marine Policy*, addresses this gap in research by examining the rationale, functions, and salience of transparency norms and processes across the multiple actors, domains, and institutions of global fisheries governance. The article considers the nature and functions of transparency in the fisheries context, drawing upon transparency research in general international law. It first discusses the emergence of transparency as a good governance principle before reviewing the legal basis for transparency in fisheries governance. It then analyses the functions of transparency, both in general and specifically in the fisheries context. This allows

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several conclusions for fisheries management to be drawn, including how transparency can be applied in practice, the need to plan transparency measures intentionally to avoid negative consequences such as information overload, and the importance of viewing transparency as a means to achieve sustainable fisheries management rather than as an end in its own right.

## 2. Nature of “transparency”

### 2.1. In general: good governance principle

Transparency is recognised as a key concept in international governance generally, where it is understood to mean ‘the adequacy, accuracy, availability, and accessibility of knowledge and information about the policies and activities of parties to [a] treaty, and of the central organizations established by it...and about the operation of the norms, rules and procedures established by the treaty’ [11].

Transparency has seen a surge in popularity in recent decades, in parallel with decision-making and governance being internationalised through the proliferation of international organisations. It has been described as an emerging principle in specific contexts, including in international environmental law [12] and international economic law [13,14]. Indeed, transparency is a core principle of global administrative law [15]. However, it does not yet appear to have reached the status of rule of customary international law [13].

Transparency emerged gradually at the international level over the past three decades. As Tallberg observes, until the 1980s, international organisations operated predominantly on the assumption that ‘information should be kept secret and public access should be an exception’ [16]. This culture of secrecy changed with a growing awareness of transparency at the international level, which followed an increased acceptance of transparency at the national level [4,17]. As international organisations have acquired more decision-making powers and emerged as global public administrators [18], this has been accompanied by normative standards as well as procedures for decision-making. Transparency is one such normative standard, alongside participation, review, accountability, and reason-giving [19,20]. In the words of Donaldson and Kingsbury, ‘[t]he spread of formal transparency policies is part of a broader pattern by which global governance is increasingly being made subject to procedural norms that, at least in loose and functional terms, reflect basic principles of administrative law as it exists within States’ [21, see also 18,22].

Since the 1990s, transparency has become widespread in the policies of international organisations [16], with some international bodies pushing member States to become more transparent. As Peters notes:

‘The Organization for Economic Co-operation and Development (OECD), the World Bank, the Council of Europe, the WTO, and other international bodies have championed transparency as an essential component of good governance and encouraged, if not mandated, recipients of aid, borrower States, and more generally their member States to adopt freedom of information laws, or at least become transparent in certain specific sectors such as trade legislation and policy’ [23].

Likewise, some States have promoted transparency policies in the international organisations to which they are members [21]. Both of these top-down and bottom-up pressures to embrace transparency have had important ripple effects. However, while they have accelerated the trend towards increased transparency, that has not yet led to the full harmonisation of approaches amongst intergovernmental institutions

[24].

### 2.2. In fisheries: international legal obligations

Fisheries governance is one of few issue areas in international law that is subject to specific transparency obligations. When it comes to States’ individual actions, transparency is mandated as a matter of international law under both the law of the sea and, to some extent, international trade law, as Harrison’s article [25] in this special issue points out. For example, under the United Nations Convention on the Law of the Sea (UNCLOS),<sup>1</sup> the United Nations Fish Stocks Agreement (Fish Stocks Agreement),<sup>2</sup> and RFMO treaties,<sup>3</sup> States have a number of binding obligations relating to such matters as reporting catches, the publicity of fisheries laws and regulations, and enforcement actions. With the growth in market-based fisheries measures, international trade law as administered by the World Trade Organisation also imposes certain transparency obligations under the General Agreement on Tariffs and Trade. Harrison concludes that transparency obligations have become more detailed, and that there has been a marked extension in the scope of their application from the traditional focus on flag and coastal States to contemporary concern also with port and market States. Through this process, transparency has increasingly been transformed from a policy into a binding legal standard.

When it comes to States acting collectively through international organisations involved in fisheries, some obligations related to transparency have also crystallised. Transparency in decision-making within RFMOs is explicitly required under article 12 of the Fish Stocks Agreement. Participatory governance is also legally mandated in that same provision. Observer NGOs or other intergovernmental organisations must be able to participate in the work of fisheries management organisations including by being given ‘timely access to the records and reports’ of the organisation. Through these obligations, the Fish Stocks Agreement not only introduces peer-to-peer monitoring by allowing access for sub-regional and regional fisheries management organisations to the decision-making of their counterparts but also provides for the participation of non-State actors.

Fischer [26], in her study of external transparency across RFMOs,<sup>4</sup> comprehensively reviews the rules for the participation of observers across RFMOs and finds them to be largely similar. She identifies areas of potential improvement vis-à-vis outsiders, such as developing a public relations strategy that does not solely rely on NGO communications, making sure that participation in closed sessions is the default setting, and acknowledging that external observers’ participation can benefit RFMOs work, for example through formalised stakeholder involvement. Her findings build upon and further develop a comprehensive 2015 study of the implementation of transparency policies in 12 RFMOs, which found that ‘[g]enerally speaking, RFMOs are doing a good job of providing basic information about their activities, of allowing for NGO

<sup>1</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, articles 61–62, 119.

<sup>2</sup> Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (adopted 4 August 1995, entered into force 11 December 2001) 2167 UNTS 3, article 12.

<sup>3</sup> See e.g., Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (adopted 14 November 2009, entered into force 24 August 2012) 2899 UNTS 211, article 24; Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (adopted 5 September 2000, entered into force 19 June 2004) 2275 UNTS 43, article 5.

<sup>4</sup> Strictly speaking the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) is a conservation body rather than a management organisation. However, it is commonly grouped with RFMOs and will be so for the present discussion.

observers at meetings, of making meeting documents available, of carrying out performance reviews, and of identifying their general objectives' [7] and that, '[overall], no organizations were identified as particularly transparent or particularly non-transparent' [7]. The Food and Agriculture Organization (FAO) is another international institution relevant to fisheries governance, through its roles as clearing house mechanism, as forum where instruments are developed and adopted, and as a body monitoring the implementation of some of these instruments. As identified by Guggisberg [27], transparency ought to be underlying many such tasks, but is not always embedded in strong obligations, or even clear policy statements, for member States cooperating through the FAO or for the FAO itself. Her article determines that the absence of an access to information policy is disappointing in an international organisation focused on gathering and disseminating data. Moreover, she found that inclusiveness in treaty and non-binding instruments' drafting is not guaranteed, nor are records from early stages of negotiation publicised. Furthermore, while States have adopted instruments mandating the FAO to monitor their efforts towards implementation, very little information seeps into the public domain, leaving one to wonder about the actual impacts of States' formal commitments.

In addition to these binding obligations, there are also other efforts to increase transparency and achieve responsible fisheries governance. One such example is the Fisheries Transparency Initiative (FiTI), which is a voluntary, global, multi-stakeholder effort. Key outcomes of the FiTI are the FiTI Principles, which set out seven guiding values for the initiative (four of which deal expressly with transparency), and now the FiTI Standard,<sup>5</sup> which provides clear directions to States and intergovernmental organisations on fisheries information that should be published. It may be noted however that while the information to which the FiTI Standard applies is very extensive, the success of the Standard will hinge on its effective implementation, which might benefit from consideration of the lessons learned identified in Section 4 below.

### 3. Functions of transparency

#### 3.1. In general

As discussed below (see Section 4.1), the assumption that transparency necessarily has positive impacts remains largely untested. Nevertheless, the scholarly literature on the topic has sought to identify the main functions of transparency [28]. Transparency is often viewed

decision making fairness, rationality, and neutrality, as well as to public understanding of the policy results' [29]. This observation carries particular weight on the international level, which lacks a constitutional system of government with a separation of powers and checks and balances [23].

Moreover, involvement of a broader range of participants including non-State actors may contribute to a form of 'deliberative democracy' as that notion has been developed by John Dryzek and others [30]. The insight from that line of research is that providing governments and citizens with opportunities to communicate and reflect upon preferences, judgments, and values on matters of common concern improves the quality of governance. Translating deliberative democracy to the international plane has its challenges, but is possible through a variety of different mechanisms. These include improved linkages between inter-State governance mechanisms and civil society actors and even the insertion of 'transnational deliberative minipublics' into a regime 'in conjunction with scientific assessments or to meet in parallel with international negotiations' [31]. Peters notes that these kinds of developments 'evidence a growing perception that the *ultimate constituency* of international law and politics is human beings and that these form a nascent global civil society – and this apart from being organised into nation-States. We have a positive feedback loop here because granting more information to the general public in turn helps to *constitute* such an (imagined) global civil society' [23]. Viewed through the lens of global administrative law, the 'institutionalisation of these principles seems likely to facilitate deliberation, and open up processes of decision-making to larger deliberative communities' [19].

One way to understand the functions performed by transparency in international regimes is to draw a distinction between transparency's immediate and instrumental value and its broader impacts on the performance and legitimacy of regimes. Another way of putting this is to identify the functions of transparency at micro-, meso- and meta- levels. The primary and most obvious micro-function of transparency is to reveal the informational context in which an international regime operates. This then has multiple flow-on effects at the meso-level such as enabling the assessment of compliance with legal obligations and generally improving regime accountability. There are then further potential higher-order or meta-functions, including on regime legitimacy and even in some circumstances recalibrating power relations between States and non-State actors (see Fig. 1, below).



Fig. 1. The micro-, meso- and meta-functions of transparency in international regimes.

as one of 'the foundations of legitimacy' [29] by enabling decision-makers to be seen in action. This is essential 'to a sense of

<sup>5</sup> 'The Fisheries Transparency Initiative Standard' (2017) [http://fisheriestransparency.org/wp-content/uploads/2017/05/FiTI\\_Standard2017EN.pdf](http://fisheriestransparency.org/wp-content/uploads/2017/05/FiTI_Standard2017EN.pdf),

### 3.2. In fisheries: inclusive and informed decision-making and the importance of participation

Transparency has wide-ranging relevance but is particularly crucial at the decision-making stage, which in fisheries governance is typically when conservation and management measures are debated and adopted. As Davis and Hanich [32] argue, transparent decision-making will be based on more and higher quality information and will be less influenced by power imbalances between States and hence lead to more equitable measures, which, in turn, will be more effectively implemented. To be truly transparent, decision-making therefore ought to be informed and inclusive. Davis and Hanich identify the type of data required to make informed decisions. While acknowledging that full information is not realistic, ideally, States would gather and share biological, abiotic, operational, economic, and social science/development data. For this information to be usable and hence relevant, Davis and Hanich recall that digitisation is crucial – although not necessarily sufficient.

The importance of inclusiveness in the quality and fairness of adopted measures is referred to in several contributions in this special issue [27,32]. These build on existing work. An earlier study by Mora et al. forthrightly stated that ‘[o]f all management attributes analyzed (ie scientific robustness, policymaking transparency, implementation capability, fishing capacity, subsidies, and access to foreign fishing) plus taking into account country wealth, we found that variations in policymaking transparency led to the largest difference in fisheries sustainability’ [2]. Ensuring inclusive decision-making relies not only on the participation of outsiders (external transparency) but also on the equality of States in the negotiations leading to a decision (internal transparency).

Internal transparency, albeit fundamental, is often overlooked since barriers to it are generally not direct. While decisions are formally taken in plenary sessions, hence enabling the participation of all RFMO Members, power imbalances remain. Fischer [26] presents several factors that limit the actual involvement of States with fewer financial or human resources – and those are often also coastal States whose role in sustainability cannot be overstated. An important issue is the prevalence of informal negotiations, especially in relation to allocation of fishing opportunities; less powerful States tend to be excluded from these closed-door meetings and presented with a solution which might even involve undisclosed package deals. Also noteworthy, important work is undertaken inter-sessionally, but leadership of, or even participation in, such meetings might be too costly for poorer countries. Being absent in these processes decreases the chance to successfully further one’s interests.

As noted in Section 2.2 above, participation by NGOs in the work of RFMOs is addressed by similar provisions amongst most of these international organisations [26]. This state of affairs did not come all at once; Petersson’s contribution [33] shows that NGOs have played an important role in agitating for increased rights to participate in meetings and for access to information and outcomes. Studying the role of NGOs across 12 RFMOs, she finds that NGOs have expressed concerns about indirect barriers which remain and limit access to sensitive and contentious matters. Consequently, there is still room for improving procedural transparency in several RFMOs.

While NGOs’ requests for further access rights within RFMOs appear generally to have paid off, the situation is quite different at the FAO. As discussed by Guggisberg [27], the level of NGO interest in fisheries discussions within the UN specialized agency is limited and the pressure for improvements appears absent. Out of the public eye, the incentives to open up, for example by way of a formalised access to information policy, are lacking.

### 3.3. In fisheries: improved compliance and greater accountability

As discussed above, transparency is also key to verifying compliance with obligations and, more generally, to improve accountability of a variety of actors [9]. Placing information on vessels, States, international organisations or even private actors in the public domain enables scrutiny, may encourage greater compliance, and builds trust in the regime.

Seto et al. [34] demonstrate the importance of both procedural and substantive transparency in monitoring compliance through a case-study on transshipment in the Western and Central Pacific Fisheries Commission (WCPFC). The world’s largest tuna fishery is found within the WCPFC area, and there are around 1000 transfers of tuna between vessels across this large domain each year. Given the association between transshipment and illicit fishing, there is a clear need for the practice to be subject to appropriate levels of scrutiny, which the WCPFC seeks to achieve through several measures including vessel monitoring systems. Seto et al. use publicly available automatic identification system (AIS) data to examine encounters at sea between purse seine vessels and reefers (refrigerated cargo vessels). They found that around two-thirds of observed encounters were unverified ‘and thus potentially illegal transshipments of fish.’ The conclusion they draw is that even for ‘one of the most highly regulated and monitored transboundary fisheries in the world, it is not possible to verify transshipment...for the vast majority of observed encounters.’ Seto et al. identify several areas for improving the transparency of transshipment, including by enhancing reporting mechanisms under the WCPFC, more consistently monitoring and reporting, and adopting or expanding formal transshipment data-sharing procedures.

Beyond the vessel-level, transparency has an important role to play in verifying that the commitments made by States are acted upon. Whether in their individual or collective actions, governmental entities have obligations at various scales of fisheries governance and must respect them to build trust with each other [25] and towards their constituents. At the international organisation level, RFMOs see their performance reviewed independently and with some regularity; the reports of such reviews are publicly available and so is some information on the follow-up on recommendations [35]. Nonetheless, Petersson notes that unavailability of information on remedial actions has been raised as a concern by some NGOs [33]. Her study also shows that, while NGOs can participate in some of these processes, inclusiveness is not equal across the board. States cooperating through RFMOs see their respect of obligations examined during the performance review process. In some RFMOs, their behaviour is also subject to more regular scrutiny within the Commission – again here, Petersson notes that some RFMOs appear to lag behind, with compliance meetings closed to observers, information on compliance kept confidential, and/or NGOs remaining unable to submit relevant data to the RFMO.

Against this nuanced evaluation of RFMOs’ transparency about compliance issues, the FAO does not compare well. While, as Guggisberg discusses [27], its own work seems generally to be conducted satisfactorily, the FAO does not have a regular, independent review process of its own performance vis-à-vis its mandate in fisheries. As to FAO Member States’ respect of their commitments under that framework, it might be the subject of substantive evaluation by the UN specialized agency, but very little information comes to light to verify such hypothesis. The FAO has been mandated to monitor the implementation of a number of instruments, and sometimes to publish reports thereon. In reality, it has struggled even to elicit responses to its questionnaire on the implementation of the Code of Conduct for Responsible Fisheries. It provides some information on the identity of the (non-) responders, a naming and shaming strategy that seems to have proven useful. However, the substantive information which is publicised is highly general and aggregated – the transparency required to ensure some level of accountability is thus severely lacking.

Non-State actors are not bound, *stricto sensu*, by the transparency

obligations discussed in this article. However, some industry leaders in the fisheries field have voluntarily made public commitments and are subjecting their performance against these pledges to an independent, external review process. Koehler [36] examines the extent to which private companies in the global tuna fishing industry are transparent in the implementation of their sustainability commitments. Koehler's focus is the International Seafood Sustainability Foundation (ISSF) and the International Seafood Sustainability Association, which are industry associations that seek to promote the long-term sustainability of global tuna stocks. A key tool used by the ISSF is conservation measures that address a number of sustainability commitments including support to RFMOs, data collection and traceability, bycatch reduction, monitoring and compliance, IUU fishing, and fishing capacity. Participating companies have to abide by these conservation measures, and their implementation is reviewed, annually, by auditors independent from the ISSF. With audit reports available online and clear sanctions if non-compliance is found and not remedied, the sustainability commitments made by these industry actors are part of a robust, trustworthy system.

#### 4. Conclusion: lessons for fisheries management

The research in this special issue identifies possible improvements to the way in which transparency can be implemented to contribute to sustainable fisheries management. However, several caveats apply. First, the positive impact of transparency ought not to be accepted without a thorough examination of its implementation in practice. Second, transparency in a substantive sense does not mean simply the availability of data; it must also focus on information of high quality and usability for specific stakeholders. Finally, keeping in mind the ultimate purpose of sustainability, transparency is but one stone in the larger process of building legitimate and effective regimes for managing shared resources. Each of these is discussed in turn.

##### 4.1. Evaluating the impact of transparency in practice

The notion that transparency is inherently beneficial is underlined by its connections to normative good governance principles. However, the assumption that transparency necessarily leads to good, or at least better, governance is just that – an assumption [37]. The positive impacts of transparency are generally implied. In reality, it is difficult to assess causation or even correlation between increased transparency and positive impacts, as recognised by Petersson, Koehler, and Walton et al. [33,36,38] in this special issue.

This challenge is particularly apparent for Walton et al. [38] who assess whether the focus on transparency in the management of Pacific tuna fisheries has delivered 'practical benefits'. They find increased transparency in some respects, including better monitoring of fishing effort through the Vessel Day Scheme (VDS), improved surveillance of fishing activity, better on-board observation, and greater data gathering and sharing. However, they also identify shortcomings. In relation to the transparency of policy context, Walton et al. find that global norms of fisheries transparency as expressed in the Code of Conduct for Responsible Fisheries and the Fish Stocks Agreement have influenced the WCPFC, but that the translation of these standards further down into national contexts has proven more challenging and problematic. In relation to decision-making, efforts to improve transparency in Pacific Islands' fisheries have been mixed, with opacity of decisions sometimes the outcome of competing interests between key stakeholders. As for transparency of policy outcomes (the effects of transparency on citizens, governments, and the environment), again, the picture is mixed with some progress in some areas (e.g., regional VDS for purse seine vessels) and difficulties in others (e.g., assessing fisheries management performance across the region against ecological sustainability goals).

Further empirical research is required on the extent to which, and the conditions under which, transparency produces positive impacts on

sustainable fisheries management. Paradoxically, though, such studies rely on empirical data being made available by the relevant fisheries management bodies. In other words, a degree of transparency is required in order to assess the impacts of transparency in fisheries management.

##### 4.2. Intentional and planned transparency

Even before the actual impacts of transparency can be determined, the current implementation of this principle needs to be thought out carefully, in order to avoid unintended negative consequences.

As Davis and Hanich [32] argue, attention should be paid to the type, quality, and accessibility of fisheries data and not only its quantity. In particular, the availability of raw information is not necessarily sufficient for there to be meaningful transparency. The opposite of transparency is not only opacity and confidentiality but also complexity and disorder [23]. There is no effective transparency if, for example, the relevant information is buried in a mass of data that is released without context or analysis. This is particularly relevant in the fisheries context where large datasets about catch, locations or species are commonly available but, absent analysis from States and other actors, this information may carry limited value.

Formenti's article [39] illustrates the relative uselessness of data if it is not collected systematically, analysed or further disseminated – but also the potential of datasets that have not yet been tapped into. His research focuses on fisheries subsidies, which States have widely agreed need to be revisited in order to avoid harmful effects on sustainability. However, as he notes, data on the type, amount, and beneficiaries of such subsidies has been largely lacking – and hence has been unable to inform the ongoing negotiations towards a binding instrument on fisheries subsidies. Formenti uses data provided through the subsidies notification mechanism under the Agreement on Subsidies and Countervailing Measures in order to demonstrate that this deficiency can be remedied, in particular with some modifications to the existing system: data ought to be better classified and standardised, categories of required information need to be adapted to the specificities of fisheries subsidies, and publicly available data within other fora should be integrated.

In fact, an overload of data or information may exacerbate existing power imbalances. A flood of information from fisheries organisations can exceed the capacity for civil society and States with limited capacity to assess and respond. In the era of "big data", this can lend greater power to the already more powerful actors and institutions rather than democratising information flows. Meaningful participation and deliberation may in some circumstances become more difficult where there is an information overload [23].

This alludes to a general challenge. Transparency can affect power relations both positively and negatively. Transparency can allow some actors to engage more effectively and can lead to more equitable conservation management measures [32]. However, it may also create new disparities in power, increasing the influence of some States over global governance institutions relative to others [21]. As Davis and Hanich highlight, in some settings, it is confidentiality that can 'enable developing States to form negotiating coalitions that help to reduce power disparities' [32].

A similarly nuanced approach is needed when weighing internal versus external transparency. Fischer's assessment of transparency within RFMOs challenges the assumption that greater external transparency will in all circumstances produce fairer and more effective conservation and management outcomes. She notes, for instance, that closed sessions are sometimes vital for ensuring that key issues are discussed in the main forum of the meeting (where a record is kept) rather than on the margins. For this and other reasons, she argues, there is a need 'to balance the requirements for external transparency with those for internal transparency' [26].

Overall, a distinction can therefore be drawn, across several

dimensions, between non-transparency and beneficial transparency. It cannot be assumed that simply *more* transparency will necessarily produce better governance outcomes. For instance, transparency systems can be “gamed” to suit the interests of some actors over others and become a facade for business as usual or the shifting of decision-making from open venues to closed ones [23]. Much hinges on the *quality* of the transparency. There are therefore weak and strong conceptions of transparency in much the same way as there are weak and strong ideas of sustainability. To avoid the equivalent of “greenwashing”, close attention needs to be paid to the systems through which information is collected, released, and used.

#### 4.3. Transparency as a means to an end

Transparency may have limited effectiveness if pursued as an independent goal rather than as part of a broader effort to achieve sustainable fisheries management. It serves little if a State or an international organisation fares well in terms of formal transparency but nevertheless fails to achieve its overall mandate. As Davis and Hanich conclude, ‘transparency needs to be approached strategically – who are we being transparent for, and why?’ [32].

Transparency must be coupled with other norms and systems, such as related good governance principles, keeping in mind the overall purpose of the regime, which ought to be sustainable management of common resources. Inclusive and informed decision-making contributes to the adoption of effective conservation and management measures, while ensuring a level of legitimacy. This is possible if quality information is made available and if the realities of power imbalances even between actors of the same formal category are accounted for. To do so, corrective measures, such as financial support to participation or capacity building, might be required.

As to transparency’s function vis-à-vis compliance and accountability, it is often a necessary step to verify actors’ respect with their obligations, but it is rarely sufficient. First, making information available does not mean that it will be used to determine the extent of one’s compliance. Without verification of behaviour against commitments, those can too often be construed as greenwashing, and erode trust in the regime. Second, even if a State, international organisation, or private company is found in violation of its undertakings, a follow-up process is usually necessary to avoid impunity. Facilitative measures might be needed, but so are potential penalties. Naming and shaming, the only sanction directly related to transparency, might not be sufficient to trigger the required modification of behaviour. Learning from industry’s best practices [36], a trustworthy regime should be built around the following pillars: clear and well-defined public commitments; regular progress reporting against those commitments; independent and transparent audits to verify progress; and follow-up actions in response to lack of progress.

As the papers in this special issue demonstrate, transparency can improve fisheries governance if applied with the above lessons in mind, not least to avoid amplifying power imbalances between States. Nonetheless, to achieve sustainable use of these global resources, reform towards increased openness is required at all levels, as made abundantly clear in the FiTI and its focus on multi-stakeholder participation.

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