The Fight against Illegal, Unreported and Unregulated Fishing

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Abstract

The international community have been of aware of IUU fishing for over a decade. As a result, the FAO adopted an International Plan of Action in 2001 which called upon all its members to take actions against these illegal practices. The EC adopted a Regulation to prevent, deter and eliminate IUU fishing on 29 September 2008. It will enter into force on 1 January 2010 and is inspired by the FAOs International Plan of Action to prevent, deter and eliminate IUU fishing (2001). The Proposal for a Regulation to fight IUU fishing was a result from a public consultation held in January 2007. It constitutes one of the most serious threats to the sustainable exploitation of living aquatic resources and marine biodiversity, causes depletion of fish stocks and future stock growth, damages the marine environment by over fishing and irresponsible fishing practices and techniques. The depletion of fish stocks reduces the size of catches which in turn contributes to lower turnover and eventually job losses. It contributes to unfair competition among those operators who abide by the rules and those who do not and it causes serious overall consequences for coastal communities and in particular those in developing countries who rely to a large extent on fisheries

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1. Introduction

The European Commission believes that it is essential to engage in dialogue with the fisheries industry and other groups affected by the Common Fisheries Policy (CFP). Real dialogue is a prerequisite for successful policies as it generates an exchange of views with fishermen and other stakeholders and provides the Commission with better knowledge about their problems and expectations which in turn can be taken into consideration when proposals for fisheries rules are drafted by the Commission. The industry is also more likely to accept and implement CFP rules if it has been involved in the formulation of these rules. This is why the European Commission throughout the years has taken a series of measures to strengthen the dialogue with the fisheries sector and other interested parties. [1]

One of the first measures was to set up the Advisory Committee on Fisheries at the beginning of the 1970s. The Committee was reformed in 2000 to make it more efficient and to broaden the dialogue with the industry and other stakeholders. New interest groups (aquaculture, Non-Governmental Organisations (NGOs) and scientists) became involved in the committee which was baptised Advisory Committee on Fisheries and Aquaculture (ACFA). ACFA is made up of 21 members representing different interests including vessel owners, fishermen, fish farmers, the processing industry and NGOs. It is consulted by the Commission on measures related to the CFP and can issue opinions on its own initiative.

The 2000 reform of the ACFA was foreseen in a Commission action plan presented in 1999 aimed at creating the conditions for well-informed and transparent dialogue with all those actively
Apart from the renewal of the ACFA, the action plan has given an impetus to a strengthening of the dialogue with the sector through the following actions:

1) Reinforcement of European trade organisations to allow them to better carry out their tasks following the reorganisation of the ACFA. A financial contribution is now available to organisations so that they can meet in Brussels to prepare for meetings of the ACFA;

2) Improving communication to ensure that stakeholders are better informed about the CFP, legislative proposals in the pipeline, scientific advice as well as other aspects related to the CFP. Activities include, for example, the setting-up of various communication tools such as the Commission’s thematic website on fisheries, the bi-monthly magazine "Fisheries and aquaculture in Europe", conferences, targeted information material (printed and audiovisual) as well as contacts with the media.

Despite the progress achieved in terms of strengthening the dialogue with stakeholders, the consultation of the fisheries industry in the framework of the 2002 reform of the CFP clearly showed that there was a need to do more. Stakeholders did not feel sufficiently involved in some important aspects of the CFP, such as, for example, the provision of scientific advice and the adoption of technical measures. Many fishermen, in particular, believed that their views and knowledge were not sufficiently taken into account by managers and scientists.

To address this shortcoming, the Commission proposed to create a network of Regional Advisory Councils (RACs) involving fishermen, scientists and other stakeholders on a regional level. On the basis of the Commission proposal, the Council adopted in July 2004 a common framework for RACs which foresees the establishment of 7 RACs covering 5 geographical areas as well as pelagic stocks and the high seas fleet. They will enable the fishing sector to work more closely with scientists in collating reliable data and discussing ways of improving scientific advice. RACs will submit recommendations and suggestions on any aspects of the fisheries they cover to the Commission and the Member States concerned.

2. Materials and methods

It is estimated that IUU practices amounts to approximately 10 billion Euros every year worldwide. IUU fishing represents 19% of the worldwide reported value of catches. Developing countries pay a particular high price to this Scourge. [3]
The poorest countries pay the highest price to IUU activities through diminished resources and lost potential catches and revenue. IUU operators are often profiting from a lack of means by developing countries to protect/control its waters from IUU operators. The populations of coastal communities are often solely dependant upon small scale fishing for their livelihood.

The EC imports an estimated 1.1 billion Euros worth of IUU fishery products every year. The EC has a key role to play in the global fishery production and market and must therefore take a key role in the fight against IUU fishing. Measures already adopted at regional and international level are not sufficient enough to fight IUU fishing.

More sustainable management of fisheries:
• Improved management and control over fishing activities occurring in a coastal State’s waters;
• Increased revenues for fishing activities which are normally exploited by IUU operators;
• Improved welfare and the livelihood of fishing communities and local fishermen;
• Establishment of fair trade of fishery products;
• Improved cooperation in the fight against IUU fishing

Expected benefits for authorities:
• Improved control over fishing activities carried out by its vessels
• Improved powers to cooperate with other countries in terms of validation and verification
• Improved cooperation with other countries for sanctioning of IUU activities and capacity building where necessary
• Improved awareness of fishing activities through exchange of information under the Community alert system
• Increased cooperation within national authorities

Expected benefits for the sector
• More stable supply and sustainable fishery products for the fish processing industry
• Improved traceability of fishery products which could be substituted against private traceability systems
• Restored consumer trust
• Improved cooperation with flag and market State’s authorities
• Assurance of legality of its products
• Establishment of fair trade of fishery products
• Even playing field for operators trading with the EC [3, 4]
The IUU Regulation does not introduce any new conservation and management measures. The Regulation is a transparent and non-discriminatory instrument which seeks to prevent, deter and eliminate fishery products derived from IUU activities (and thus fails to comply with conservation and management measures) to be traded to/from the Community. The scope of the Regulation applies to:
• all fishing vessels under any flag in all maritime waters;
• all processed and unprocessed marine fishery products, (excluding products listed in Annex I of the Regulation, revised on a yearly basis)
Third country fishing vessels shall be granted authorization to land where prior notice have been given and the fishery products are accompanied by a validated catch certificate. Member States may authorize entry into a port if the fishery products are not accompanied by a catch certificate, but shall keep such products in storage until the checking process is completed. [5]
Transshipment operations constitute a common way to launder illegal catches. Thus, transshipments in EC waters are prohibited and may only take place in designated ports in a Member State. Outside EC waters transshipments between EC and third country vessels are not authorized, unless the vessel is registered as a carrier vessel under the auspice of a RFMO. Each transshipment must be noted in the catch certificate these measures will enable competent authorities to better monitor transshipments.
Third country fishing vessels shall be granted authorization to land or transship where prior notice have been given and the fishery products are accompanied by a validated catch certificate. Member States may authorize entry into a port if the fishery products are not accompanied by a catch certificate, but shall keep such products in storage until the checking process is completed. If this process is not completed within 14 days of arrival the Member State may confiscate the fishery products.
Member States will carry out inspections of at least 5% of all landings and transshipments by using harmonized criteria for risk analysis. The inspections will be organized in such a way that unnecessary delays in port are avoided. The result of an inspection will also be communicated to the flag State. [6]
The competent flag State authority will be notified of the inspection report for the purpose of its own investigation. For infringement occurred in the EEZ of a third country, this country will also be notified for the purpose of investigation. Where relevant, the flag States of the donor vessel will be notified of the infringement and the notification will also be communicated to the RFMO competent for the violated conservation and management measures

3. Results and discussion
The catch certification scheme:
• All marine fishery products traded with the EC, including processed products, must be accompanied by validated catch certificates
• The validation must certify that the catch was made in accordance with applicable laws, regulations and international conservation and management measures
The scheme is inspired by existing systems of certification adopted by RFMOs which have proven to be the most effective. The catch certification scheme will enable a flag State to ensure traceability of all its fishery products traded with the EC. It will enable flag States to better monitor the fishing activities carried out by its vessels and ensure compliance with applicable conservation and management rules and will improve the dissemination of information between flag, coastal, processing and market States. It is up to the exporter to request a catch certificate for catches which are to be traded to the EC, complete it and transmit it to the competent flag State authority for validation. [6, 7]
The EC importer must ensure that the consignment to imported must be accompanied by a validated catch certificate to be communicated by the exporter prior to the importation to the EC
The specific situation of small scale fisheries in export trade will be taken into account in the catch certification scheme. The certification requirement will be adapted in order to facilitate the request for validation which will be done by the exporter following certain criteria based upon this specific situation. Those criteria will be published in the
implementing rules and are likely to include the length or the capacity of the vessel, the place of landing and the gear used.

Electronic means may be used: [7]
- By the third country operator to establish the catch certificate to be submitted to its authorities for validation;
- By this authority/ies to validate the catch certificate and communicate it back to the third country operator;
- By the third country operator to communicate the validated catch certificate to the importer in the EC.

Validation of catch certificates
Only a competent authority can validate a catch certificate. It is up each flag State to designate its competent authority/ies as long as it is a public authority empowered to attest the information on the catch certificate. Each third country must notify the Commission of their competent authorities. The names of these countries and their authorities will be published in the OJ of the EU and on DG MARE’S website. [8]

The competent public authority may validate the catch certificate if, at the time of request for validation, it had no conflicting information that the catch was not made in compliance with applicable conservation and management measures. If at that time the competent authority have doubt regarding compliance it shall carry out a verification to determine whether the catch was legitimate or not before giving its validation. If there is evidence that the catch was not made in compliance with applicable conservation and management measures it shall not validate the catch certificate.

Catch certificates, re-export certificates and related documents validated in conformity with catch documentation schemes adopted by RFMOs and which comply with the requirements of this Regulation may be accepted for the species concerned. The list of such documentation schemes shall be determined by the European Commission. This list will be published in the implementing Regulation.

4. Conclusions

A Community alert system has been established to share information on operators and fishing vessels which are presumed to carry out IUU activities. The alert system seeks to more effectively identify situations at risk, improve efficiency of controls and avoid unnecessary verifications. The system is expected to have a preventive effect, as it will also contribute to ensuring transparency, due to its public nature and facilitate cooperation with third countries.

Nationals of the EC shall neither support nor engage in IUU activities and the EC Member State concerned shall cooperate with the relevant third country in order to identify nationals supporting or engaging in IUU activities. The EC Member State concerned must take appropriate measures (without prejudice to the responsibility of the flag State) against their nationals engaging or supporting IUU activities.

IUU fishing can only be prevented, deterred and eliminated if States can effectively track down on IUU operators. The Regulation therefore includes a system of effective, proportionate and dissuasive sanctions, accompanying sanctions and enforcement measures for serious infringements in respect of natural and legal persons. The EC (pending agreement) cooperate with a flag State if a suspected breach have taken place on the high seas in carrying out investigation to the breach and if expressly agreed by the flag State, sanction the operator. If the breach took place within the maritime waters of a third country, the port Member State may (pending agreement) cooperate in carrying out investigation to the breach and if expressly agreed by the flag State, sanction the operator.

The European Commission will notify a flag State if its fishing vessels fail to comply with the Regulation and ask it to take corrective measures. If the flag State refuse/fail to take corrective measures against the vessel the European Commission may, after having consulted the flag State and the vessel owner, as a preventive measure, place that vessel on a list of IUU vessels until appropriate measures have been taken. Vessels listed on IUU vessels lists adopted by RFMOs will automatically be included on the EC IUU vessel list.

Fishing vessels listed on the EC IUU Vessel List will:
- Not be authorized to fish and be chartered in EC waters
- Only be authorized to enter a EC port if the catches onboard and prohibited fishing gear are confiscated.
• Not be supplied with fuel or other services in port, except in cases of force majeure or distress
• Not be authorized to change crew, except in cases of force majeure or distress
• Not be authorized to have its fishery products traded with the EC

The European Commission will identify third countries that it considers non-cooperating in the fight against IUU fishing, by failing to discharge its duties under international law as a flag, port, coastal or market State. The European Commission will notify countries that may be identified as non-cooperating and give opportunity to respond to the allegation, or take appropriate measures to rectify the situation within an appropriate time frame. The European Council may adopt a list of no cooperating countries and publish the list in its Official Journal and on its website.

The European Commission has undertaken to cooperate administratively with and/or support third countries in the implementation of this Regulation. It will pay special attention to the capabilities, needs and the situation of developing countries.

Implementing rules are currently being discussed with Member States and was adopted mid 2009. Also, a handbook on the IUU Regulation was published mid 2009 for the benefit of authorities and stakeholder in Member States and third countries.

IUU fishing activities
By fighting IUU we will:
• Improve welfare and the livelihood of fishing communities:
• Establish fair trade of fishery products:
• Create commitment and cooperation to stop IUU fishing activities:
• Achieve sustainable world fisheries and better management for fisheries.

References


