

EU Regulation to combat illegal fishing Third country carding process

Yellow and red-carding process is encouraging fisheries reforms and must be maintained

Introduction

The European Union is the world's largest market for seafood products, importing around 60% of its overall consumption. However, the quantity of illegal seafood products imported into the EU each year is estimated at 500,000 tonnes, worth some €1.1 billion¹. To combat this, in 2008 the EU enacted what is arguably the world's most stringent legislation² preventing illegally caught fish from entering its market.

The EU Regulation to end illegal, unreported and unregulated (IUU) fishing requires that 'third countries' (those not in the EU) which export fish to the EU or lend their flags to vessels

that import into the EU meet strict standards for fisheries management. If these standards are not met, the countries may be 'carded', which means that they could ultimately face exclusion of their fish from the EU market.

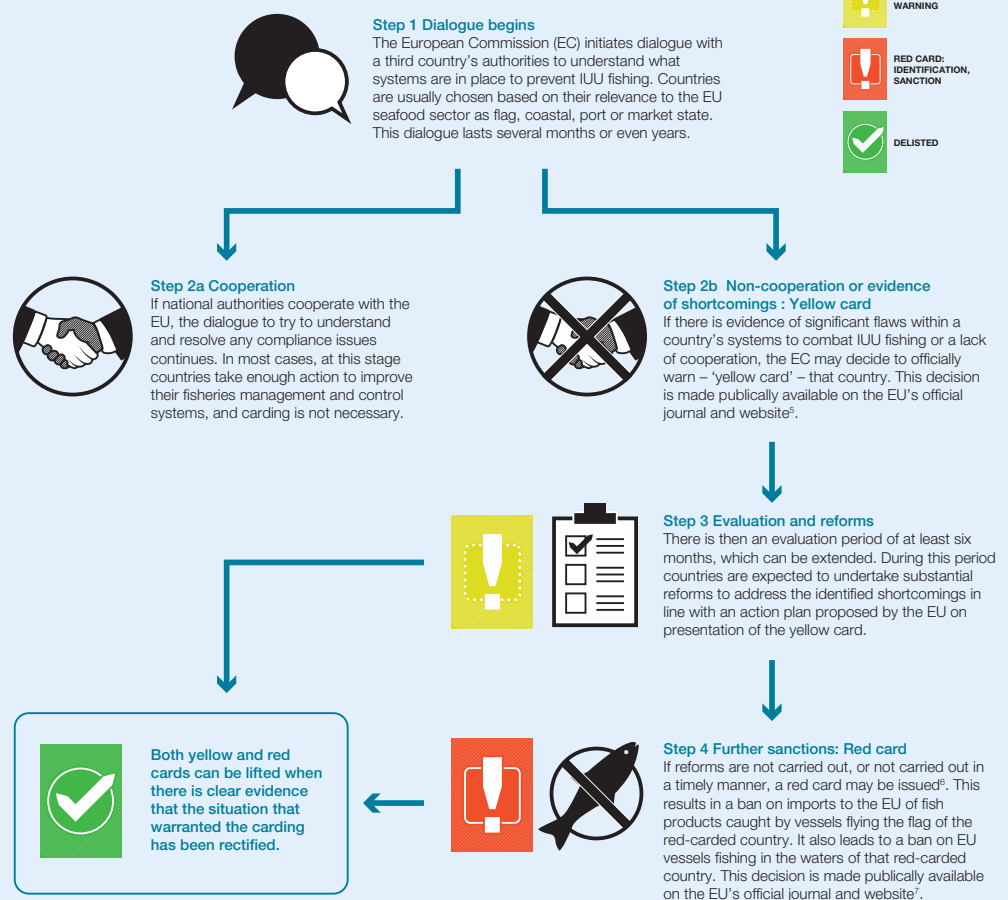
Since the EU's illegal fishing laws came into force in 2010, a series of countries have been issued with warnings – so-called yellow cards – for failure to improve their fisheries management. The majority of these have undertaken robust reforms, and subsequently had the yellow cards removed. Others failed to comply and were then issued with red cards, with resulting sanctions.

Reasons for yellow and red cards

So far, countries have been yellow or red carded on the basis of a series of infringements of international fisheries obligations³, including:

- Failure to meet their obligations as flag State to control and monitor their fleet;
- Absence of adequate control and surveillance of foreign vessels operating in their waters;
- Lack of a sanctioning system to penalise vessels and any actors involved in IUU fishing;
- Non-existence or poor performance of port inspectors;
- Poor seafood traceability schemes; and
- Overall lack of compliance with RFMOs'⁴ conservation and management measures.

How does the carding process work?



¹ Figures are prior to the entry into force of the IUU Regulation, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52007DC0601&from=EN>

² Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 286, 29.10.2008).

³ International law considered includes the 1982 United Nations Convention on the Law of the Sea, 1993 FAO Compliance Agreement, 1995 UN Fish Stocks Agreement, 1995 FAO Code of Conduct for Responsible Fisheries, 2001 FAO International Plan of Action on IUU fishing, and the 2005 FAO Model Scheme on Port State Measures to combat IUU Fishing.

⁴ Regional fisheries management organisations or RFMOs are international organisations formed by countries with fishing interests in an area of the ocean.

⁵ EC's decision to grant yellow cards, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uris-er:OJ_C_2012.354.01.0001.01.ENG

⁶ Granting a red card consists of two different steps. First, the EC identifies the country and proposes the red card, and second the Council of the EU adopts the final decision.

⁷ EC's decision to grant a red card, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uris-er:OJ_L_2014.091.01.0043.01.ENG

How did countries respond to their yellow and red cards?

In 2012, the EU issued yellow cards to eight countries – **Belize, Cambodia, Fiji, Guinea, Panama, Sri Lanka, Togo and Vanuatu**⁸ – for non-compliance with international fisheries laws and the EU’s IUU Regulation. The yellow cards highlighted the need for swift action by these countries to improve their domestic fisheries management and legislation. Belize, Cambodia and Guinea consequently received a red card in November 2013 for failure to make sufficient progress⁹. Sri Lanka received a red card in October 2014¹⁰.

Most of these countries then showed a commitment to improve their fisheries management and control systems, as well as a willingness to cooperate closely with the EU to achieve the necessary changes. Over a period of two and a half years, they undertook substantial legislative and policy revisions, including:

- Revising domestic laws to increase monitoring and control of their waters;
- Adopting new policies to strengthen inspections in ports;
- Entirely reforming vessel registry systems, and deregistering any vessel with an IUU fishing history;
- Substantially decreasing the domestic fleet to match its size with actual monitoring, control and surveillance capacity in the country;
- Implementing international law obligations and adopting an adequate legal framework for fighting against IUU fishing;
- Strengthening sanctions and enforcing these against vessels involved in IUU fishing activities; and
- Increasing funding and manpower for fisheries management and control departments.

Belize, Fiji, Panama, Togo and Vanuatu had their cards removed in 2014¹¹, having taken appropriate steps to address the shortcomings.

Conversely, Cambodia, Guinea and Sri Lanka failed to undertake the necessary reforms to address deficiencies identified by the EU and remain red carded as of mid-2015. As soon as these countries deal effectively with flaws in their systems for combatting IUU fishing, the EU will review their status.

The EU can provide financial and technical assistance to third countries

The EU provided technical and financial assistance to strengthen fisheries management and control in third countries even before the IUU Regulation was enforced. More than 55 countries have received aid, mainly via two EU-funded programmes: ACP Fish II¹² and the Thematic Programme for Environment and Sustainable Management of Natural Resources (ENRTP)¹³.

A key element of the EU’s carding process is to evaluate the capacity of each third country to fulfill its international obligations and the requirements of the EU IUU Regulation, and then provide it with assistance to fulfill those requirements.

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing.

Conclusion

The process of carding third countries that are failing to take action against IUU fishing is the most notable achievement of the EU IUU Regulation. It incentivises concrete improvements in fisheries management standards with direct benefits to the communities affected by illegal fishing.

As a result, Belize, Fiji, Panama, Togo and Vanuatu have substantially reformed their fisheries policies and laws, introduced more sophisticated and effective vessel monitoring systems, as well as deterrent sanctions for vessels involved in IUU fishing, and increased resources to put the new measures into practice.

Officials from these countries have stated that carding was a strong incentive to align their national policies and legislation with international standards:

“The EU listing has really helped to raise awareness of everyone: government, the industry people to know that some of the work that they are doing is illegal or not legal or unreported, so it is a big awareness (...) it’s a blessing to be yellow-listed now to be able to teach others the requirements of the EU in order to get the EU markets.” Inoke Udolu Wainiqolo, Permanent Secretary for Fisheries, Fiji.

“The listing is drawing attention to the fact that there is a problem and you have got to come to realisation that there is a problem (...) once you do that you get the national political support, the funding and industry support you need to address the problem.” Martin Tsamenyi, Director of the Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong.

To watch a series of interviews with third country officials, please go to <http://bit.ly/1suBPLM>

The EU makes the grounds for carding publically available, which permits other countries to learn from these cases and implement changes ahead of any such dialogue between the EU and their own officials.

In addition, the EU’s third-country listing process is creating a level playing field for law-abiding fishers whilst providing additional assurance to EU processing and retailing sectors that their supply chain is clean of illegal seafood.

We therefore recommend that:

- The EU continues its cooperative dialogue with third countries, ensuring further changes in their fisheries management and control systems such as ratification of the FAO Port State Measures Agreement and the wider use of IMO numbers;
- The EU makes its carding and decision making processes increasingly transparent;
- Third countries seize the opportunity to cooperate with the EU, undertaking the necessary reforms to fight effectively against IUU fishing and consequently improve the marketability of their fisheries products;
- The EU works closely with other market states to combat IUU fishing globally.

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⁸ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_2012.354.01.0001.01.ENG

⁹ The Council of the EU adopted the red card in March 2014.

¹⁰ The Council of the EU adopted the red card in early 2015.

¹¹ The decision on Belize is available at: http://eurlex.europa.eu/legalcontent/EN/TXT/?uri=uriserv:OJ.L_2014.360.01.0053.01.ENG; while the decisions on Togo, Vanuatu, Panama and Fiji are

available at: http://europa.eu/rapid/press-release_STATEMENT-14-314_en.htm

¹² <http://www.acpfish2-eu.org/>

¹³ http://ec.europa.eu/europeaid/funding/instruments-programming/funding-instruments/geographic-instruments/environment-and_en