

EU Regulation to combat illegal fishing Third country carding process

Success for South Korea and the Philippines

Introduction

The carding process is a provision of the 2010 EU Regulation to end illegal, unreported and unregulated (IUU) fishing¹ which 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 international standards for fisheries management.

If they do not meet these standards third countries can face a series of measures, culminating in the possible exclusion of their fish products from the EU.

The carding process is proving a highly effective tool for incentivizing concrete improvements in fisheries management, and monitoring, control and enforcement schemes in third

countries. It contributes to the global effort to combat illegal fishing while directly benefitting a sustainable fishing industry.

In November 2013 and June 2014, the EU issued warnings (yellow cards) to South Korea and the Philippines respectively, for their continued failure to comply with international obligations to fight illegal fishing and to improve their fisheries management and control².

This case study lays out the detailed process by which the European Commission worked with both South Korean and Philippine authorities to address compliance issues, resulting in the successful lifting of the yellow cards for both countries.

What criteria are being used by the EU to engage with third countries?

Within the framework of the EU IUU Regulation, the Commission conducts rigorous fact-finding missions to evaluate the compliance of third countries with their duties as flag, coastal, port or market States under international law³. The Commission and third country authorities enter into a dialogue⁴ which can last months, and even years, to assess the systems in place to prevent IUU fishing and their compliance with international rules according to the following categories:

- 1 The compliance of a third country's legal framework with international rules⁵, for instance, the implementation of flag State obligations for the registration of vessels, and the existence of systems for monitoring, inspection and enforcement, and for the delivery of effective sanctions.
- 2 The ratification of international treaties⁶ and participation in regional and multilateral cooperation; this includes membership of RFMOs⁷ and compliance with RFMO conservation and management measures, for instance, with regard to reporting obligations, carrying observers on board, and tracking of authorized vessels.

- 3 The implementation of appropriate measures, allocation of adequate financial, human and technical resources, and establishment of administrative and technical structures necessary to ensure control, inspection and enforcement of fishing activities. For instance, countries need to maintain an accurate and updated list of vessels linked to an effective licensing system, and implement fisheries management and conservation measures.
- 4 The application of adequate monitoring, control and surveillance systems, including inspections and enforcement actions, both in the country's sovereign waters and outside these waters.

In considering the above issues, the Commission also takes into account the specific constraints of developing countries and existing capacity of their competent authorities, particularly in relation to monitoring, control and surveillance of fishing activities⁸.

Once the Commission has carried out its review and collected all information⁹ to identify a non-cooperating third country, a decision is taken. If the country is carded, it will need to take a proactive role in complying with international requirements, as set out above, in order to be delisted. EU decisions to yellow or red-card a third country, or to lift those cards, are made publically available on the EU's official journal and the Commission's website¹⁰.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1408984470270&uri=CELEX:02008R1005-20110309>

² The EC Decision on South Korea can be found at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_2013.346.01.0026.01.ENG; the EC Decision on the Philippines can be found at [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014D0617\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014D0617(02)&from=EN)

³ Article 31 of the IUU Regulation

⁴ http://ec.europa.eu/fisheries/documentation/publications/2015-04-tackling-iuu-fishing_en.pdf

⁵ The United Nations Convention on the Law of the Sea (UNCLOS), the FAO International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU), the United Nations Fish Stocks

Agreement (UNFSA) and the FAO Voluntary Guidelines for Flag State Performance (VGFSP).

⁶ For instance, The United Nations Convention on the Law of the Sea (UNCLOS), and the United Nations Fish Stocks Agreement (UNFSA).

⁷ Regional fisheries management organizations or RFMOs are international organizations formed by countries with fishing interests in an area of the ocean.

⁸ Article 31(5)(d) and 31(7) of the IUU Regulation.

⁹ As set out under Article 31(2) of the IUU Regulation

¹⁰ http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/index_en.htm

How did the Philippines and South Korea respond to their yellow cards?

In less than two years since dialogue with the Commission began, South Korea and the Philippines have developed new fisheries legislation, improved their inspection set-ups and upgraded their traceability systems in line with international law. These reforms now have to be implemented over the coming years to make more progress and both countries have committed to further improve fisheries management and control systems. However, if they fail to adhere to these commitments they could again be subject to the carding process.

South Korea now has sufficient means to prevent, deter and eliminate IUU fishing activities in a proactive manner, closing previously identified loopholes in its systems. In particular, it has:

- Carried out a broad revision of the legal framework governing its long distance fleet in line with international requirements and has updated its National Plan of Action on IUU fishing (NPOA-IUU)¹¹;
- Joined the International Monitoring, Control and Surveillance (MCS) Network for Fisheries-related Activities¹², intensified cooperation with third countries and NGOs in the fight against IUU fishing activities, and introduced and applied much higher sanctions for vessels found to fish illegally;
- Established a fisheries monitoring centre that controls in near real-time its fleet in all oceans, and installed a vessel monitoring system (VMS) on board all South Korean-flagged distant water fishing vessels (approximately 300 vessels). It has also increased the coverage and quality of its on-board observer program¹³ to strengthen the operational effectiveness of its control system, and has employed sufficient staff for control and validation purposes;
- Put in place procedures to guarantee a more reliable catch certification scheme. For instance, as from September 2015 all vessels will be fitted with an electronic logbook system, which will allow them to share real-time information on catch and fishing operations¹⁴;
- Introduced a “precautionary principle” for the authorisation of distant water activity by their vessels, preventing South Korean-flagged vessels from fishing in waters that are known to be poorly regulated by coastal State authorities; and
- Initiated the process to ratify the FAO Port State Measures Agreement.

Since their yellow card was issued, **the Philippines** has strengthened its commitment to fighting IUU fishing at the international level, ratifying the UN Fish Stocks Agreement (UNFSA) and initiating procedures to ratify the Port States Measures Agreement. In addition, it has:

- Carried out extensive reforms of its legal framework, put in place domestic legislation to implement RFMO conservation and management measures¹⁵, and introduced new measures to target the activities of its long distance fleet, including a stronger sanctioning scheme for IUU-related infringements;
- Adopted new traceability rules to ensure control over fish products along the supply chain, as well as standard operating procedures for the comprehensive cross-checking and

certification of information contained in EU catch certificates before validation;

- Ensured that more than 200 Philippine fishing vessels operating in areas regulated by the WCPFC, IOTC and ICCAT RFMOs¹⁶, as well as national and foreign vessels fishing in Philippine waters, now have real-time VMS coverage. A fully-fledged fisheries monitoring centre has also been established in Manila;
- Established an electronic licensing system, and increased the human, technical and financial resources available for fisheries administration, including the progressive recruitment of new officials allocated to inspection activities and implementation of the catch certification scheme, plus increased budget for the fisheries department; and
- Improved cooperation with neighbouring countries in the fight against IUU fishing, in particular with Papua New Guinea, making arrangements to share information on landings and transshipments and to coordinate practices which improve traceability and catch certification procedures.

As a result of all these actions, South Korea and the Philippines had their yellow cards lifted in April 2015

“From the experience and expertise taken, I would like to advise them [yellow-carded countries] strongly to have political commitment and take action to address IUU fishing practices. The political willingness is the most important factor to address this problem. It is a global duty to address this issue.”

Kim Young-Suk, Minister for agriculture, food and rural affairs, South Korea.

Conclusion

The above cases demonstrate the success of the EU's IUU Regulation to act as a positive force for change to improve fisheries management and controls schemes within third countries. We 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;
- The EU seafood industry, in particular those with trading interests in third countries, strengthens seafood traceability and sustainability schemes that contribute to the global fight against IUU fishing.

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.

Contacts: Max Schmid | Environmental Justice Foundation | +44(0) 207 239 3310
max.schmid@ejfoundation.org

Vanya Vulperhorst | Oceana | +32 (0) 2 513 2242 | vvulperhorst@oceana.org
Marta Marrero | The Pew Charitable Trusts | +32 (0) 2 274 1631 | mmarrero@pewtrusts.org
Eszter Hidas | WWF | +32 (0) 2 761 0425 | ehidas@wwf.eu

¹¹ http://ftp.fao.org/fi/DOCUMENT/IPOAS/national/KoreaRep/NPOA_IUU_Korea_Republic.pdf

¹² <http://www.imcsnet.org/>

¹³ In order to ensure full traceability, South Korea committed in its third review of its NPOA-IUU, to enforce its on-board controls. Read more: <http://nr.iisd.org/news/republic-of-korea-outlines-actions-to-address-iuu-fishing-in-npoa/>

¹⁴ <http://ejfoundation.org/news/eu-removes-south-korea-list-those-failing-combat-pirate-fishing>

¹⁵ Adopted by WCPFC, IOTC, ICCAT, to which the Philippines is a contracting party.

¹⁶ WCPFC - Western and Central Pacific Fisheries Commission, IOTC - Indian Ocean Tuna Commission, IATTC - Inter-American Tropical Tuna Commission.