

EC Policy Framework for Fisheries

The EC is the world's leading importer of fish and has fishing fleets in every ocean. The EC considers itself to have a major responsibility in taking a lead in preventing, deterring and eliminating IUU fishing, and it has a clear economic interest in combating it. Given the high levels of support the EC gives to its fisheries (including subsidies to the EC fleet), EC fishing interests are concerned that IUU fish is a source of price competition.

The IUU Regulation forms part of a comprehensive regulation by the EC of fisheries and trade in fisheries products. The detailed analysis of the IUU Regulation set out below needs to be understood in light of the overall policy framework within which the Regulation is situated.

7.1 The Common Fisheries Policy

The management of fisheries and aquaculture in the EC is governed by the Common Fisheries Policy. The main objective of the policy is to ensure that living aquatic resources are exploited in a way that is economically, environmentally and socially sustainable, primarily through following sound scientific advice and having a precautionary approach to fisheries management.⁹³ The scope of the Common Fisheries Policy covers the conservation, management and exploitation of living aquatic resources and aquaculture, as well as the processing and marketing of fish and aquaculture products where such activities are practised on the territory of member states, in EC waters or by EC fishing vessels or nationals of member states.

The key reforms of the policy are with respect to the conservation of resources, protection of the environment from the impacts of fishing, fleet management, common organisation of markets, relations with third countries, and control and enforcement. The measures adopted by the EC to achieve an effective control and enforcement regime include increasing co-operation among member states to enhance transparency; identifying all fish products from the catcher or exporter to the consumer; stricter monitoring of non-EC vessels; and stricter monitoring of EC vessels outside EC waters.

Since 1993, the EC has adopted a number of regulations to implement the Common Fisheries Policy.⁹⁴ These spell out the obligation of each EC member state to ensure proper enforcement of all relevant fisheries conservation and management measures by vessels carrying its flag and operating in national waters, in the waters of third states and on the high seas. However, while there is a common obligation for EC member states to ensure effective fisheries enforcement, the regulations do not in any way affect the sovereignty of such states in discharging their individual flag state duties. The framework for enforcement under the Common Fisheries Policy also provides that in the interests of effectiveness and fairness, the EC is determined to ensure that third country vessels

which operate in EC waters or land their catch in EC ports comply with the conservation measures established by the regulations.

7.2 Community Plan of Action for the Eradication of IUU Fishing

The Community Plan of Action for the Eradication of IUU Fishing⁹⁵ was adopted in 2002 in response to the call by the IPOA-IUU to address the problem. The Community Plan of Action contains 15 actions divided into measures at the community level, RFMO level, international level and measures to be implemented in partnership with developing countries. Some of the specific measures under the plan include control over nationals; identification and monitoring of IUU vessels; identifying and quantifying illegal catches; requirements for catch certificates and documents; improvement of information on fishing vessels; definition of a substantial link between a state and a vessel; international co-operation; and provision for assistance to developing countries to control IUU fishing. The Community Action Plan recommends the adoption of a regulation to implement these measures.

7.3 EC strategy to combat IUU fishing

In 2007 the EC adopted its strategy to combat IUU fishing.⁹⁶ While the focus of the earlier Community Action Plan was to ensure effective flag state implementation by EC member states, the EC strategy to combat IUU fishing is intended to control IUU fishing products from third countries which enter the EC market. Nine fields of action form the main thrust of the new approach to combat IUU fishing. These include:

- Improving control of compliance with conservation and management measures by third country vessels and their catches accessing fishing ports of the EC;
- Improving control of compliance with conservation and management measures by third country fishery products transported by means other than fishing vessels;
- Closing the EC market to IUU fisheries products;
- Addressing IUU activities carried out by nationals from the EC;
- Improving the legal means of identifying IUU fishing activities;
- Introducing an efficient system of penalties to deter serious infringements of fisheries measures;
- Improving action against IUU fishing within RFMOs;
- Supporting policies and implementation of measures against IUU fishing put in place by developing countries;
- Increasing synergies in the field of monitoring, control, and surveillance.

Although the EC's general approach to combating IUU fishing is widely supported, a

number of concerns have been expressed concerning the proposed fields of action in the strategy. The principal concerns relate to the proposed measures on traceability to ensure compliance by third country vessels with international conservation and management measures. The concern is that this may result in the exclusion of the products of developing countries from EC markets if they are unable to comply with the requirements.⁹⁷ There are also concerns about the proposal to ban fish products emanating from third countries which fail to ensure that their vessels comply with RFMO conservation and management measures.⁹⁸