

Issues for Policy Reflection

This chapter identifies issues for policy consideration by ACP states and the EC at national, regional and multilateral levels.

11.1 Policy responses to the IUU Regulation by ACP states

EC and ACP member states have equal international obligations to prevent, deter and eliminate IUU fishing. Measures to combat IUU fishing such as the ones contained in the IUU Regulation will become prevalent and embedded parts of national, regional, subregional and international fisheries governance arrangements to ensure sustainable and responsible fishing practices.

The evidence so far shows that many developing states are at the receiving end of IUU fishing. It poses a serious threat to the sovereignty and sovereign rights of many developing coastal states in terms of managing their fishery resources in a sustainable manner. IUU fishing also poses a serious threat to the food security of many developing countries. Developing states are also the weakest link in the global fight against IUU fishing. Most of them face challenges in terms of resources, finance, knowledge and capacity in implementing sustainable fisheries governance measures.

It is true that some developing states derive short-term economic benefits from IUU fishing activities by providing, for example, 'ports of convenience' for IUU fishing vessels and by refusing to implement appropriate control measures on their own vessels. However, the majority of developing states have demonstrated their opposition to IUU fishing and therefore have a direct interest in ending the trade in IUU caught fish. This is evidenced by the growing number of developing countries that are taking regional action against IUU fishing (such as the recent statement by SADC and the regional plan of action adopted by the south-east Asian states to eradicate IUU fishing noted above).

The actual implications of the IUU Regulation on ACP member states can only be fully assessed when they are implemented. However, from the text of the proposed Regulation, one can identify particular areas which will give rise to implementation challenges for ACP member states. For example, the requirements for catch certification and validation of such certificates will require the implementation of appropriate legislative and administrative measures to ensure compliance. ACP flag states will need to have processes in place to monitor and control their vessels (through, for example, vessel monitoring systems and observer programmes). They will also need to implement effective fisheries management measures such as fishing authorisations and data collection systems. These requirements will, undoubtedly, impose additional resource and

administrative burdens on the already stressed and weak administrations of most ACP member states. Although it can be argued that these requirements are already part of the international obligations of the ACP states, these countries currently do have some policy flexibility in terms of the level of resources and time-frame for implementation of these international obligations without the threat of trade sanctions.

As already noted, the requirements of the IUU Regulation regarding non-cooperating third countries will also impose additional administrative burdens and costs on ACP member states. For example, they will be required to put in place legal and administrative measures and procedures to respond to investigations by EC member states and to provide feedback or follow-up to IUU fishing and related activities of their vessels.

A critical issue for the ACP member states is how to develop a co-ordinated and sustained strategic approach to obtaining the necessary technical and financial assistance to support the implementation of domestic governance measures compliant with the IUU Regulation and international obligations to combat IUU fishing. This will require prior identification of national gaps, evaluation of the costs of implementation, including capacity building requirements, ongoing implementation costs, etc. In this respect, lessons can be drawn from the implementation of SPS measures. Such a strategic approach can assist ACP states in avoiding the negative effects of IUU fishing, in addition to the negative effects of trade measures applied in response to failures to comply with the IUU Regulation.

11.2 Availability of alternative markets for ACP fisheries exports

Part A of this report shows that there is some scope for alternative markets for ACP fisheries exports to the USA and Japan. However, the point needs to be made that these markets are moving towards establishing IUU control restrictions similar to the EC Regulation. As with the fisheries trade between the EC and ACP, domestic rules apply to the ACP export of fish and fisheries products to the USA and Japan. If ACP states wish to increase their exports to the USA and Japan, they will need to improve their capabilities in fish processing in order to increase their competitiveness in the international trade in fish, and subsequently capture some of the market for preserved fish currently monopolised by south-east Asia. Significantly, ACP states would also need to improve their capacity to comply with increasing regulation of fisheries, which involves promoting food safety and sustainable fisheries, including combating IUU fishing.¹⁹⁵ For example, the actions proposed under the US Magnuson-Stevens Fishery Conservation and Management Reauthorisation legislation are very similar to the measures proposed under the EC IUU Regulation. In the case of Japan, similar policy and legal measures are yet to be adopted. However, like the EC, Japan is at the forefront of the global fight against IUU fishing. Japan is currently a member of all RFMOs and it has consistently supported the adoption of catch documentation schemes and IUU fishing measures. Relevant to its participation in RFMOs, in 2007 Japan organised a Joint Tuna RFMO meeting in order to promote the harmonisation of conservation and management meas-

ures among the five tuna RFMOs. Japan has further undertaken other relevant steps, such as scrapping vessels and initiating buy-back measures in order to limit fishing capacity.¹⁹⁶

These developments suggest that in the context of the impact of the IUU Regulation, ACP options to diversify away from the EC towards other markets would appear to be limited in the longer term.

11.3 Policy considerations for the EC

While the IUU Regulation is a welcome development, it needs to be implemented in a fair and transparent manner. The EC must acknowledge the vulnerability of developing countries in implementing the requirements of the Regulation. It is important that developing states are not directly or indirectly required to bear a disproportionate burden of global efforts to combat IUU fishing. It is therefore important that the trade implications of the IUU Regulation for developing states are weighed against the need for such states to protect their fisheries resources from the damaging effects of IUU fishing.

A major policy issue for the EC is how to assist developing states to implement the requirements of international instruments and the IUU Regulation. Without the necessary technical and financial resource to implement and enforce these new demands, it is likely that several ACP exporters (and even entire countries) will be hit hard. The implementation of the EC's SPS measures provide valuable lessons and are a well-known double standard, as these rules seem to be less strictly enforced within certain EC member states.

The IUU Regulation aims to address the implementation challenges that developing countries will face by proposing to provide for mutual assistance between EC member states and developing countries, although the level of resources to be provided by the EC has not been specified. The EC needs to clarify the scope of this co-operative arrangement and ensure that the financial assistance to be provided will be allocated outside existing development funding arrangements.