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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**On a new strategy for the Community to prevent, deter and eliminate Illegal,
Unreported and Unregulated fishing**

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Illegal, Unreported and Unregulated (IUU) fishing is a major threat worldwide to the sustainable management of marine resources.

The global 'turnover' of IUU fisheries has recently been estimated at in excess of € 10 billion. This makes the IUU business the second largest fish producer in the world by value, after China.

IUU is a global problem. It is also one in which the EU is called to play a leading role. The EU has one of the largest fishing fleets, is the third catching power and the world's largest market and importer of fisheries products. Illegal fisheries imports into the EU have been estimated conservatively at € 1.1 billion a year.

The loss is far from purely economic. Many IUU fisheries also extort an important ecological cost. While 75% of world fish stocks are either fully or over-exploited by *legal* fisheries, IUU fishing represents the hidden force which threatens to undermine this worrying situation. This threat also extends to vulnerable marine ecosystems, at a time when the international community is committed to protect them from destructive fishing practices.

There is a broad international consensus on the need to act decisively against IUU fishing, expressed in particular by the FAO, the UN General Assembly and the OECD. The EU has long been active in the fight against IUU fishing, both at home, and internationally. This commitment was encapsulated in the EU's own 2002 Action Plan for the eradication of IUU fishing¹.

The Commission believes that the time has come to take the fight against IUU fishing to a new level. The best way to put an end to this lucrative business is to remove the incentive for crime by making it extremely difficult, if not impossible, to market IUU products at a profit.

The need for a new EU impetus against IUU fishing has been recently highlighted by the European Parliament².

This Communication describes the main characteristics of the IUU phenomenon, and outlines the core elements of a new strategy to ensure that in future, fisheries crime does not pay.

The integrated approach for the sustainable use of the oceans which underpins this initiative is shared with the European Marine Strategy and should also be seen as one step forward on the

¹ Communication from the Commission: Community Action Plan for the eradication of illegal, unreported and unregulated fishing - COM(2002) 180, 28.5.2002 - and Council Conclusions of 7.6.2002.

² European Parliament Resolution on the implementation of the EU action plan against illegal, unreported and unregulated fishing, adopted on 15 February 2007 (2006/2225(INI)).

path towards an integrated Maritime Policy for the European Union laid out in the Communication published by the Commission on 10 October 2007 (COM(2007) 575 – the "Blue Paper").

1. FEATURES AND SCALE OF IUU FISHING

1.1. Scope

The only internationally agreed definition of "IUU fishing" is to be found in the FAO's IUU Action Plan. In line with this definition, and for the sake of clarity, the Commission considers that the scope of the EU policy to deter, prevent and eliminate IUU fishing should cover:

- infringements to rules on management and conservation of fisheries resources in national and international waters;
- fishing activities in high seas areas covered by a Regional Fisheries Management Organisation carried out by vessels without nationality or registered in a non Party to the RFMO and in a manner contravening the rules issued by this organisation;
- fishing activities carried out in high seas areas not covered by a RFMO in a manner inconsistent with state responsibilities for the conservation of fisheries resources under international law.

The policy of the EU against IUU fishing shall therefore encompass fishing activities occurring within EU waters as well as beyond those waters. This policy should be geared towards deterring and punishing the most damaging infringements.

1.2. Impacts of IUU fishing

The need to strengthen EU action is directly explained by the multiple detrimental impacts associated with IUU fishing.

1.2.1. Environmental damage

The most obvious impact of IUU fishing is the often disastrous damage it inflicts on marine biodiversity.

- The practice of IUU fishing is to be found in every ocean, where it does great harm to the **sustainability of fisheries**. This is the case when catches go un- or misreported and thus contribute to over fishing. This is also the case when fishing activities target juveniles, in contravention of the rules on minimum sizes, or are carried out during periods or in areas which are normally closed, thus jeopardizing the renewal of the fish stocks concerned. All these impacts are worsened when targeted stocks are already outside safe biological limits.
- The environmental consequences of IUU fishing go well beyond the direct damage done to fish stocks. These practices also represent a serious threat to **marine habitats**. In particular, fishing with prohibited methods can result in a high proportion of unwanted species being taken as by-catch and then discarded. Such by-catch includes not only fish species, but other species, such as seabirds or turtles, the vast majority of which will not survive. Fishing in protected areas may also be the direct cause of irreversible damage to vulnerable marine habitats, such as coral reefs.

1.2.2. Socio-economic consequences

IUU fishing does not only damage the marine environment. It represents the theft of common fisheries resources and results in considerable losses to those fishermen who do abide by the law. Accurate estimates of the full extent of any illicit practice are, of course, difficult to obtain. Notwithstanding, the value of IUU fishing has been assessed to amount worldwide € 10 billion. For comparison, the value of landings by the EU fleet was € 6.8 billion in 2004.

- The EU fishing industry faces fierce competition from IUU operators who disregard all obligations which legal operators take on when working the same fishing grounds or targeting the same species and end markets (e.g., cod, redfish, swordfish, toothfish, tuna). EU fishermen operating legally thus face unfair practices of IUU operators, which result in particular in loss of market share for the EU industry. This problem has worsened over the last years with the globalisation of the fisheries sector, which has led to increased trade flows of fisheries products whose legality is difficult to ascertain.
- IUU fishing also has dramatic consequences for **coastal communities in developing countries**, for which fish resources may play a major role in food security and poverty alleviation. Coastal developing countries often lack the means and capacity to manage and control properly the maritime waters under their jurisdiction. Unscrupulous illegal operators take advantage of those weaknesses to pursue fishing activities without authorization from the coastal states and to plunder resources which are vital to local fishermen. This is a major problem in Sub-Saharan Africa, where losses resulting from IUU fishing have been estimated at as much as € 800 million a year.
- In addition, some firms who practice illegal fishing, including EU operators, operate substandard vessels flying the flag of states which apply no or very low standards of social protection. As a result, their crews have to endure **unacceptable living and working conditions**. This in turn undermines efforts to achieve international progress on social standards for fishermen, reflected in the consolidated convention on work in the fishing sector adopted by the International Labour Organisation (ILO) in June 2007.

1.2.3. IUU fishing undermines effort for better oceans governance

The continuation of illicit practices undermines the legitimacy among EU fishermen of the rules of the Common Fisheries Policy (CFP).

IUU fishing thus represents a major threat not only to the future of the common resources of our oceans, but also to any attempts to improve the governance regime through which they are managed. In this way, it jeopardizes the very foundation of the Community policy which is designed to ensure their sustainable management within and beyond EU waters.

1.3. Drivers of IUU fishing

The most important drivers supporting the perpetuation of IUU fishing are described briefly below.

1.3.1. IUU fishing remains a profitable activity

Incentives to practice IUU fishing persist as long as it remains a profitable activity for the operators concerned.

- Operators practising IUU activities are able to maintain **low operating costs and enjoy substantial profits**. The operating costs of firms involved in illegal fishing are generally lower than those of the average fishing firm operating legally. Costs resulting from social and tax charges can be reduced to a minimum or may even be non-existent for fleets engaged in IUU activities under cover of offshore companies or flags of non compliance. Non-respect of fisheries rules and trading of catches outside official channels also translate into reduced expenses. While costs are low, the probable profits from IUU activities are generally high, in particular since illegal operators tend to target valuable species which command higher market prices (for example, toothfish, bluefin tuna or cod).
- In some fisheries, the **overcapacity of the fishing fleets** compared to the fishing possibilities available also generates illicit fishing activities, as some vessels will exceed the catch limits to which they are subject in order to maintain a level of catch that can keep their business profitable.

In a context of steady increase in the consumption of fisheries products worldwide, the incentives for supplying illegal fisheries products to the end markets will remain high as long as operators are able to make a profit on such activities.

1.3.2. IUU operators are able to perform their activities without facing any substantial hurdles

The persistence of IUU practices is to a large extent the consequence of the ease with which illegal operators are able to pursue their activities throughout the whole supply chain, unhampered by any kind of obligation or constraint which might interfere with their practices.

– IUU operators firstly take advantage of the benefits available under certain national systems of flag registration.

A large number of fishing vessels, in particular those operating outside EU waters, are registered in states which run open registers and/or in states unwilling or unable to exercise proper control over their fishing fleet so as to ensure that they respect conservation and management measures. Registration in such states is generally a very simple and inexpensive operation. This encourages flag-hopping, where vessels regularly change flags in order to benefit from the least demanding regimes and make it more difficult for inspection and control services to keep track of them. Under the Law of the Sea, the duty to exert control over a vessel is primarily incumbent upon the flag state. Illegal operators deliberately use flag from states which are unable or unwilling to exert such control. Both port states and market states have at their disposal instruments which can significantly reduce the incentives provided by such "flags of non-compliance", but so far not enough use has been made of these instruments. As a result, most of the vessels identified as committing IUU offences in different parts of the world continue to be registered in states known for their failure to impose adequate control on their fishing fleet.

– These problems are exacerbated by insufficient cooperation at both international and EU levels between states and international bodies responsible for monitoring, control and surveillance of fishing and associated activities.

- IUU operators tend to pursue their catching activities in fishing grounds where control activities are difficult to perform (for example remote high seas areas) or where the control

capacities of the competent public authorities are not adequate to deter them (notably in maritime waters of developing countries).

- IUU fishing is by essence an international activity. International trade in fisheries products has grown considerably as part of the economic globalization, and this has provided illegal operators with many lucrative new opportunities. To dissimulate their illegal origin, catches are often transported along complex routes before they reach their final market, including transshipments at sea, landings in "ports of convenience" and processing in a country which is different from both the flag and the market states. In some instances, the complexity, scale and working methods of these activities can rightly be qualified as a form of cross-border organised crime.
 - In addition, the low probability of illegal operators being penalized and the economic insignificance of the actual sanctions which may be incurred remain insufficient to constitute an effective deterrent for those who engage in IUU fishing. Those sanctions come to be considered as negligible operating costs.
 - Cooperation at all levels (international, regional, EU and national) is of paramount importance in order to properly track and investigate IUU activities. Despite some progress, the services in charge of the various aspects of maritime surveillance and border control remain fragmented, and the absence of sufficient means to collect evidence and exchange information between them have hindered the establishment of effective mechanisms to deter IUU operators from continuing their activities.
- **Illegal operators within EU waters also take advantage of the weakness of the control, inspection and enforcement systems of Member States to develop their activities.**

The volume of fisheries products which are harvested in contravention of Community rules and then sold outside official channels on the EU market (so-called "black fish") can reach a very high proportion in some fisheries (it is for example estimated that 35-45% of cod caught in the Baltic Sea is landed without being declared).

2. PROPOSAL FOR A NEW EU STRATEGY TO DETER, PREVENT AND ELIMINATE IUU FISHING

In line with its international commitments and its overall objective of improving management and avoiding overexploitation of natural resources (as set out in the EU Sustainable Development Strategy agreed at the European Council of June 2006), the EU has a specific responsibility to lead international efforts in the fight against IUU fishing.

The EU has been very active over the last years, promoting at EU, regional and international levels the implementation of an ambitious policy to deter, prevent and eliminate IUU fishing.

While significant progress has been made, notably within RFMOs, there is no doubt that IUU fishing is far from being eradicated. The Commission considers that the persistence of such practices despite EU and international action, and their dramatic environmental and socio-economic consequences, call for an urgent and firm reply by the EU.

The EU policy against IUU fishing has been driven in the past by the imperative need to elaborate international rules and establish and consolidate regional bodies responsible for

enacting them. To a large extent, the focus was placed on the monitoring, control and surveillance of activities occurring at sea and the identification of IUU operators. The Commission considers that the time has now come to extend this framework to the rest of the supply chain and improve its effectiveness, by placing the focus on the need for better enforcement and truly deterrent sanctions.

The main challenges which the EU has to face in its policy against IUU fishing are the following:

- How to identify, prevent and sanction the import of IUU products from third countries into the EU market?
- How to enact more efficient measures to identify and sanction vessels and states engaged in or supporting IUU activities in the high seas or in waters of developing countries?
- How to improve the level of compliance with the rules of the Common Fishery Policy within EC waters and/or by EC operators?

Those three challenges can be considered as the main problems posed by IUU fishing to the EU, and an adequate strategy needs to be devised to meet them.

The approach proposed by the Commission aims to encompass all fishing and related activities linked to IUU practices (harvesting, transshipment, processing, landing, trade, etc.), and to address the problems raised by those activities at EU, regional and international levels. It will build on and further develop the most advanced measures enacted at international and regional levels, while also advocating for unilateral action by the EU wherever multilateral initiatives are not yet able to achieve a satisfactory outcome.

The main features of the new strategy against IUU fishing advocated by the Commission are described below³. Some of the measures supported by the Commission will have to be based on a regulatory instrument, and they are therefore included in the proposal for a Council Regulation⁴ which has been adopted by the Commission together with the present Communication. Other measures aim at guiding the future policy of the EU in the international arena or in its collaboration with its partners, and therefore do not have a regulatory nature.

2.1. Complete the EU system for anti-IUU action by integrating the trade dimension

The transnational and complex characteristics of the IUU phenomenon require the adoption of an integrated approach to address these activities throughout the whole supply chain (from the net to the plate). The main shortcoming of the current EU regime is precisely that it is not comprehensive enough. The market dimension of the IUU problem is to a large extent left aside, despite the fact that the EU is the biggest market and the leading importer of fisheries products, with the value of fisheries products imported into the EU amounting to nearly € 14 billion in 2005. The EU framework is particularly weak when it comes to guaranteeing

³ A more detailed presentation of the proposals underpinning this strategy, as well as a review of the 2002 Community Action features in the Commission staff working document adopted together with the present Communication.

⁴ Proposal on Council Regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing - COM(2007) 602, 17.10.2007.

that fisheries products from third countries imported into the EU have been caught in compliance with relevant management and conservation rules. As a result, the volume of illegal fisheries products imported each year into the EU has been assessed to amount to approximately 500 000 tons for a value of € 1,1 billion, and higher figures should not be excluded.

There is an urgent need for the EU to close these gaps. To this end, the current regime needs to be overhauled, via the introduction of major changes in the EU approach to the monitoring of the legality of fisheries products to be imported into its territory and the access of third country vessels to EU fishing ports. The measures proposed should effectively close the doors of the EU to illegal fisheries products and vessels, and thereby reduce the economic incentives for IUU operators to harvest and trade illicit fisheries products.

Action proposed by the Commission:

- Introduction of a new regime governing the access to the Community territory of third country fishing vessels and imported fisheries products. This regime should be based on the principle that only those fisheries products certified as legal by the flag state concerned are entitled to enter into the Community.

2.2. Find more effective ways to persuade flag states unwilling or unable to exert an adequate control over their fishing vessels to ensure compliance with rules

To address the issue of "flags of non compliance" in the fisheries sector, the EU has been taking or supporting a series of initiatives at multilateral level. While acknowledging their importance, the Commission considers those initiatives fall short of effectively addressing the problem.

The Commission regards as unacceptable the current situation where regional and international bodies are unable to enact effective measures against states which fail to discharge their duties under international law to take appropriate action against IUU fishing, and notably against those states hosting flags of non-compliance. The absence of multilateral action should not prevent the EU from fulfilling its own commitments against IUU fishing and taking any initiatives it judges necessary. The EU should establish for itself a transparent and fair mechanism to identify those states which place themselves outside the international legal order and thereby facilitate IUU practices, and should apply appropriate measures to encourage them to ensure that their vessels do comply with management and conservation rules.

Action proposed by the Commission:

- Entitle the Community to act unilaterally in order to identify and establish black lists of states hosting flags of non compliance and vessels responsible for IUU fishing, and enact trade measures towards them.

2.3. Reaching a higher degree of compliance with international and EU standards by EU vessels and operators, and generally in Community waters

The EU can only be seen as a credible actor against IUU fishing in the international arena if it is able to demonstrate that illegal fishing in EU waters, and more generally by EU vessels and

operators, is being adequately tackled. Numerous investigations have shown that enforcement of the current provisions of the Common Fisheries Policy (CFP) is far from satisfactory. EU operators are also believed to form a significant proportion of those registering their fishing vessels in states hosting flags of non compliance. This weakness should be addressed as a matter of urgency.

The current EU framework already provides for a comprehensive system of control, inspection and enforcement of fisheries rules. Implementing those provisions fall within the competence of Member States. In that respect, the first step towards better compliance with Community law is an improvement of Member States' actions to address illegal fishing in their waters or committed by their vessels or nationals beyond EU waters.

In addition, the current framework should be enhanced with a view to closing remaining loopholes of which illegal operators can take advantage. To this end, the Commission intends to propose in 2008 a simplification and update of the EU framework on control, inspection and enforcement.

However, the Commission is also of the view that the insufficient level of the penalties imposed for serious infringements of fisheries law and the large degree of impunity enjoyed by EU nationals who engage in or support illicit fishing outside the EU are flagrant deficiencies which encourage the continuation of IUU fishing. These weaknesses call for an urgent reaction by the EU.

Action proposed by the Commission:

- Use all the means at its disposal to encourage Member States and Community nationals to ensure a proper implementation of the current CFP framework;
- Approximation at EU level of maximal levels of sanctions corresponding to serious infringements to the rules of the CFP;
- Stricter control and enforcement measures against Community nationals responsible for IUU fishing beyond Community waters.

2.4. Better cooperation for investigating IUU activities

As indicated in Section 1.3, effective investigation of IUU activities requires a high degree of coordination and regular exchange of information between the various services in charge of maritime surveillance and border control, as well as for the development of new means to deter such activities. The Commission wishes to enhance the policy and practice of the EU in that regard.

The Community Fisheries Control Agency⁵ (CFCA) will have a pivotal role to play in this field:

- within the EU, via the gathering and dissemination of information and the coordination of activities of national control authorities, the Commission and other agencies;
- between the EU and third countries, by promoting better cooperation at international level to improve the operational MCS capacities of control authorities in their tracking of cross-border IUU activities.

Action proposed by the Commission:

- At international level, the Commission proposes that the EU substantially contributes to the multilateral efforts carried out, notably within the FAO, to put in place a global register of fishing vessels, an international network dedicated to MCS activities and to promote mutual assistance with third countries to combat IUU fishing;
- At Community level, coordination between and within Member's States control authorities should be improved via the activities of the CFCA.

2.5. Intensify EU policy against IUU fishing on the high seas and in relation with developing countries

The Commission considers that the regional scale is the most relevant level at which to address in operational terms IUU fishing in the high seas. The Commission therefore intends to propose that the EU intensify its policy within RFMOs to deter, prevent and eliminate IUU fishing.

Coastal developing countries are one of the main victims of IUU fishing. EU policy places the fight against IUU fishing at the heart of its relations with those states. In particular, the EU contributes to the strengthening of their capacity for better management and monitoring of fishing activities. This policy must be reaffirmed and reinforced through the bilateral relations between the EU and those countries, within the framework of both Fisheries Partnership Agreements and EU development policy dialogue. The implementation of the Community system to prevent, deter and eliminate IUU fishing shall be accompanied by actions and initiatives to enhance the capacity and means of developing countries to establish the proposed certification system and for better management and monitoring of fishing activities. This objective should also be pursued at regional level, via ad hoc schemes with coastal countries and regional organisations, on the model of the regional plan for fisheries surveillance in the southwest Indian Ocean agreed in January 2007. Financial contribution will notably help coastal developing countries to fulfil the requirements of the Community certification scheme applying to imports of fisheries products into the EU which the Commission intends to propose. The Commission will further assess the consequences of the IUU regulation on developing countries and the need for accompanying measures. The EU will in particular carry out training programmes in developing countries to ensure a smooth

⁵ Cf. Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy.

application of this scheme and avoid that it impedes trade of legally harvested fisheries products.

Action proposed by the Commission:

- Consolidate, render more operational and expand measures against IUU fishing in the 13 RFMOs to which the Community is Party and promote coordination between those organisations;
- Confirm and intensify the financial support of the Community to coastal developing countries in order to improve the management and monitoring of fishing activities in their waters and by their vessels; further assess the consequences of the IUU regulation on developing countries and the need and cost of accompanying measures;
- Promote a rapid and large ratification of the ILO consolidated convention on work in the fishing sector as well as of international conventions relating to safety of fishing vessels, including by exploring the possibility to incorporate these conventions into Community law.

The Commission intends to present the new EU strategy against IUU fishing advocated in the present Communication to the European Parliament and Member States and will invite them to endorse it.