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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2014/170/EU establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing as regards Sri Lanka

COUNCIL IMPLEMENTING DECISION (EU) 2016/...

of

**amending Implementing Decision 2014/170/EU
establishing a list of non-cooperating third countries
in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008
establishing a Community system to prevent,
deter and eliminate illegal, unreported and unregulated fishing
as regards Sri Lanka**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999¹, and in particular Article 34(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 286, 29.10.2008, p. 1.

Whereas:

1. INTRODUCTION

- (1) Regulation (EC) No 1005/2008 establishes a Union system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.
- (2) Chapter VI of Regulation (EC) No 1005/2008 lays down the procedure with respect to the identification of non-cooperating third countries and *démarches* in respect of countries identified as non-cooperating third countries, and establishes a list of non-cooperating third countries, the procedure for removal from the list of non-cooperating third countries, and provides for the publication of the list of non-cooperating third countries and any emergency measures.
- (3) In accordance with Article 32 of Regulation (EC) No 1005/2008, by Decision of 15 November 2012¹ ('Decision of 15 November 2012'), the Commission notified eight third countries of the possibility of their being identified as countries which the Commission considered as non-cooperating third countries. The Democratic Socialist Republic of Sri Lanka was among those countries.
- (4) In the Decision of 15 November 2012 the Commission included information concerning the essential facts and considerations supporting that possibility.

¹ Commission Decision of 15 November 2012 on notifying the third countries that the Commission considers as possible of being identified as non-cooperating third countries pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ C 354, 17.11.2012, p. 1).

- (5) Also on 15 November 2012, the Commission notified the eight third countries by separate letters that it was considering the possibility of identifying them as non-cooperating third countries. Sri Lanka was among those countries.
- (6) By Implementing Decision 2014/715/EU¹, the Commission identified Sri Lanka as a non-cooperating third country in fighting IUU fishing. In accordance with Regulation (EC) No 1005/2008, the Commission stated the reasons for which it considered that Sri Lanka had failed to discharge its duties under international law, as flag, port, coastal or market State, to take action prevent, deter and eliminate IUU fishing.
- (7) In accordance with Article 33 of Regulation (EC) No 1005/2008, the Council, by Implementing Decision (EU) 2015/200², amended the list of non-cooperating third countries in fighting IUU fishing by adding Sri Lanka.

¹ Commission Implementing Decision 2014/715/EU of 14 October 2014 identifying a third country that the Commission considers as a non-cooperating third country pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 297, 15.10.2014, p. 13).

² Council Implementing Decision (EU) 2015/200 of 26 January 2015 amending Implementing Decision 2014/170/EU establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing as regards Sri Lanka (OJ L 33, 10.2.2015, p. 15).

- (8) Following that amendment, the Commission offered to Sri Lanka the opportunity to continue the dialogue in line with the substantive and procedural requirements laid out in Regulation (EC) No 1005/2008. The Commission continued to seek and verify all information it considered necessary, including oral and written comments, aiming at giving to Sri Lanka the opportunity to rectify the situation that warranted its listing, and to take concrete measures capable of remedying the failures that had been identified. That process resulted in the acknowledgement by the Commission that Sri Lanka has rectified the situation and taken remedial action.
- (9) Pursuant to Article 34(1) of Regulation (EC) No 1005/2008, the Council should therefore amend Implementing Decision 2014/170/EU¹ by removing Sri Lanka from the list of non-cooperating third countries.
- (10) Upon the adoption of this Decision removing Sri Lanka from the list of non-cooperating third countries in accordance with Article 34(1) of the Regulation (EC) No 1005/2008, Implementing Decision 2014/715/EU identifying Sri Lanka as a non-cooperating third country should be no longer relevant.

¹ Council Implementing Decision 2014/170/EU of 24 March 2014 establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 91, 27.3.2014, p. 43).

2. REMOVAL OF SRI LANKA FROM THE LIST OF NON-COOPERATING THIRD COUNTRIES

- (11) Following the adoption of Implementing Decision 2014/715/EU and Implementing Decision (EU) 2015/200, the Commission continued its dialogue with Sri Lanka. In particular, Sri Lanka appears to have implemented its international law obligations and has adopted an adequate legal framework for fighting IUU fishing. It has introduced an adequate and efficient monitoring, control and inspection scheme by introducing logbooks to record catch data, plus radio call signs for fishing vessels and equipping the entire high seas fleet with a Vessel Monitoring System ('VMS'). It has also created a deterrent sanctioning system, revised its fisheries legal framework and ensured the proper implementation of the catch certification scheme. Furthermore, Sri Lanka continued to improve its compliance with its international obligations, including those stemming from Regional Fisheries Management Organisations' ('RFMO') recommendations and resolutions, such as Port State Control measures and transposition of RFMO rules, into Sri Lankan law and has adopted its own National Plan of Action against IUU, in line with the International Plan of Action against Illegal, Unreported and Unregulated fishing of the United Nations.
- (12) The Commission reviewed Sri Lanka's compliance with its international obligations as flag, port, coastal or market State in line with the findings in the Decision of 15 November 2012, Implementing Decision 2014/715/EU and Implementing Decision (EU) 2015/200, and with relevant information provided by Sri Lanka. It also considered the measures taken to rectify the situation as well as the guarantees provided by the competent authorities of Sri Lanka.

- (13) The Commission concluded, on the basis of the above, that the actions undertaken by Sri Lanka in the light of its duties as flag State are sufficient to comply with Articles 94, 117 and 118 of United Nations Convention on the Law of the Sea and Articles 18, 19, 20 and 23 of United Nations Fish Stocks Agreement. The Commission concluded that the elements put forward by Sri Lanka demonstrate that the situation which warranted the listing of Sri Lanka has been rectified and that Sri Lanka has taken concrete measures capable of achieving a lasting improvement of the situation.
- (14) In the light of all those circumstances and pursuant to Article 34(1) of Regulation (EC) No 1005/2008, the Council should conclude that Sri Lanka be removed from the list of non-cooperating third countries. Implementing Decision 2014/170/EU should therefore be amended accordingly.
- (15) This Decision does not preclude any subsequent steps that might be taken by the Council or the Commission, in line with Chapter VI of the Regulation (EC) No 1005/2008, in the event factual elements were to reveal that Sri Lanka has failed to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.
- (16) In the light of the adverse consequences caused by listing as a non-cooperating third country, it is appropriate to give immediate effect to the delisting of Sri Lanka as non-cooperating third country,

HAS ADOPTED THIS DECISION:

Article 1

Sri Lanka shall be removed from the Annex to Implementing Decision 2014/170/EU.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President
