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DRAFT REPORT

on the implementation of control measures for establishing the conformity of fisheries products with access criteria to the EU market
(2017/2129(INI))

Committee on Fisheries

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EXPLANATORY STATEMENT - SUMMARY OF FACTS AND FINDINGS

The market for fish in the European Union is the largest in the world, absorbing a quarter of all imports. We imported 8.8 million tonnes of fisheries and aquaculture products in 2016, compared to EU production of 6.2 million tonnes. Our dependence on imports for almost 60% of the total supply has a clear impact on fisheries and trade policy in the EU.

The EU market is discriminatory with respect to fish and the conditions that must be met in order to place fish on the market. The discrimination does not work in favour of the EU fishing sector.

Conditions for EU vessels

Consider the rules and norms that must be met by the EU fishing sector. All operations by the EU fleet are governed by the Common Fisheries Policy. As the Committee knows, this is an extensive and detailed set of legislation dealing with many aspects of fishing, with a comprehensive control regime (Reg. 1005/2008, 1224/2009, 2017/2403) to ensure that the Member States apply the rules.

In addition, the EU fleets must respect a wide range of other policies, relating to labour standards, training, vessel safety, pollution and other environmental norms, taxation and fiscal rules and phytosanitary norms, among others.

The result is a high standard for EU-caught fish placed on the EU market. This is as it should be, for the EU consumer must be able to rely on the quality and freshness of the product, as well as the various social, economic and environmental norms that were respected in its production. Yet the consumer is not even informed that the fish was caught by an EU vessel - this is “voluntary information”.

Nonetheless, there is a very definite cost involved in meeting all of the policies, rules and norms mentioned above: taxes, fishing gears conforming to the rules, decent wages, engines polluting less, fish stored under proper temperature and other conditions, etc. In the end, fish caught by EU operators has to fetch a certain price on the market in order to be cost-effective while having to compete with products from non-EU operators who do not necessarily have the same constraints.

Conditions for non-EU vessels

Fish caught by third-country operators and imported into the EU have to meet different conditions. Trade in a very small number of marine species is restricted by CITES. EU phytosanitary norms are implemented by bilateral arrangements with third countries which provide the Commission with a list of fishing vessels and processing establishments which are deemed to meet EU standards and authorised for export to the EU. The IUU regulation seeks to ensure that fish imported in the EU does not result from IUU (illegal, unreported and unregulated) fishing.

There are a number of regulations that deal with tariffs (GSP, GSP+, Everything but Arms, autonomous tariff quotas, etc.) but they are primarily concerned with the amount of duty to be paid rather than conditions of access to the market. The GSP+ regulation requires ratification and application of a number of international legal instruments (none concerning fishing), but if the Commission deems this is not being done, the country loses its preferential tariff - its fish products are not banned.

Finally, there is a potentially sweeping law that would limit access for fish to the EU market, Reg. 1026/2012 on non-sustainable fishing, which would allow the EU to ban imports from countries which fail to cooperate in the management of stocks of common interest.

Level playing field?

Consideration of the EU acquis, both fisheries-related and other, clearly shows that the main instrument to establish a level playing field between EU-produced fish and imported fish – which everybody claims to support - is the IUU regulation. Whenever discussions occur about preventing unfair competition by keeping certain fish products off the EU market, the facile answer is that this is the role of the IUU regulation. Such an answer is naïve and disingenuous as the IUU regulation is designed solely for the purpose of preventing illegally-caught fish from entering the EU market.

IUU regulation

The adoption of the IUU regulation was a watershed in the global fight against IUU fishing. Much has been written about it, including a very recent briefing and infographic by the EPRS¹. The Commission has done its own evaluation, and the Fisheries Committee sponsored a study of its implementation a few years ago. Various parts of civil society have also published reports.

Most analyses concur that the regulation works very well. There is a growing list of countries, which, after being pre-identified or listed by the EU as a non-cooperating country in the fight against IUU fishing, have improved their fisheries management and control systems in order to maintain their access to the world's largest fish market. Considering the fact that, so far, no other country has had the courage to institute any similar kind of instrument to keep illegally-caught fish out of their market, the extent to which this regulation influences global management is truly impressive.

The implementation of the regulation is not without problems, of course. Member States are uneven in their implementation of its provisions, including verification of catch certificates, inspections at the point of import into the EU and the sanctions imposed. Despite great efforts by the Commission there is still no list of vessels engaged in IUU fishing other than those on RFMO lists. Though much has been accomplished, improvements are needed.

Sanitary requirements

The procedures for inspecting and authorising the placing of food, including fish, onto the EU market are prescribed in Reg. 854/2004. (This will be replaced by Reg. 2017/625 in December 2019 but there are no plans to change the provisions described below for fishery products.) The regulation governs inspections of food both produced in the EU and imported and includes provisions for imported fisheries products (other than direct landings in an EU port). The EU determines a list of approved third countries whose competent authorities provide “appropriate guarantees as regards compliance or equivalence with Community feed and food law and animal health rules.” It is these third-country competent authorities which inform the EU which processing plants and fishing vessels are allowed to export to the EU.

¹[http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/614598/EPRS_BRI\(2017\)614598_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/614598/EPRS_BRI(2017)614598_EN.pdf).

These third-country competent authorities may also delegate the authorisation and inspection responsibilities to another third country, such as a coastal State, provided that second third country is also on the EU list of approved countries. The third country is required to guarantee that the establishments listed comply with EU requirements. It must carry out inspection and has the power to stop non-compliant establishments to export to the EU. It is also required to maintain the list up to date.

As of December 2017, the list of third country establishments authorised for direct export of fisheries products to the EU contained 7.032 processing plants and cold stores and 3.818 fishing vessels (including reefers). The Commission sends inspection teams to these third countries periodically to verify whether the applicable conditions are being met.

While this system may appear sound on paper, and may generally function reasonably well most of the time, it is not without its weaknesses, which can cause severe problems in some instances.

Observations over more than a decade have highlighted the fact that many vessels involved in IUU fishing activities and whose products are landed and marketed in the EU, also appear on the lists of vessels certified by the authorities of third countries as respecting the EU hygiene requirements.

Some vessels never go to port, nor are they regularly inspected by the competent authorities. In several cases, not only these vessels clearly could not meet the EU hygiene requirements, but they were also fishing illegally¹.

In 2006, inspections on board a Chinese-flagged fishing vessel in Guinean waters found empty fish boxes in the hold with the names of multiple fishing vessels in the Chinese fleet which had DG SANTE numbers. It is difficult to see how either the Chinese authorities, or DG SANTE, could verify that the fish was properly labelled. The vessel had been fishing in Guinean waters for three years without a licence and was arrested by Guinean authorities with the support of the Greenpeace ship MY Esperanza. Other cases of IUU fishing vessels present on DG SANTE lists were observed in 2014 and 2017.

The most recent audit by DG SANTE in Mauritania dates to 2011. The report states:

“Certain kinds of freezer vessel (Chinese type) had structural defects that made it impossible for them to meet the conditions governing the handling of fisheries products intended for export to the EU: the sorting and production areas were not protected against the elements. What is more, these ships were in various states of disrepair, and conditions on some were positively unhygienic.” (page 11)

No subsequent audits in Mauritania appear on DG SANTE’s website, and the list of approved establishments from Mauritania currently includes 66 freezer vessels and one factory vessel.

Over more than a decade, numerous cases of vessels engaged in IUU fishing in West African waters were documented while being on DG SANCO lists of approved establishments, even after the IUU regulation entered into force.

DG SANTE point out that if a vessel appears on the EU list of IUU vessels then customs inspections will automatically refuse entry of fish derived from that vessel. However, customs

¹<https://www.greenpeace.org/archive-international/Global/international/planet-2/report/2007/8/plunder2006.pdf>.

inspections are not fully reliable (see below). Further, the relevant West African regional and sub-regional fisheries organisations (CECAF and SRFC) do not compile lists of IUU fishing vessels, nor does the EU list include IUU fishing vessels other than those listed by RFMOs. Thus, fish caught by vessels mentioned above will not be refused entry despite their history of IUU fishing.

Trade

There is very little mention in trade legislation about fisheries, other than to regulate import quotas and tariffs. Even very recent Free Trade Agreements (FTA) that have specific provisions on fisheries are quite simplistic. The Japan and Vietnam FTAs, for instance, list a few international agreements that are to be respected (one of which is voluntary, the FAO Code of Conduct) and include vague commitments to combat IUU fishing. Tellingly, these provisions are in a section of the Agreement that is not subject to a legally binding dispute settlement mechanism, but rather merely to non-binding arbitration. There is not even a commitment to ratify and effectively implement a list of fishery-related international instruments (similar to GSP+), or an explicit mention of the EU IUU regulation, let alone a commitment on the part of the third country to implement a process to ensure illegally-caught fish do not enter their market.

The EU approach to trade is frequently perceived as being counter-productive to good fisheries governance in the EU by continually opening up the EU market to fish products from countries which do not necessarily have the same standards as we do. In 2014, the Commission proposed giving GSP+ status to the Philippines, while at the same time pre-identifying it as a non-cooperating country. The inconsistency between warning a country, on the one hand, that it was at risk of a serious trade ban on fisheries products, while simultaneously according it more favourable trade status seemed to be lost on the Commission.

Another example concerns South Korea, with which the Commission was negotiating an FTA at the same time as Korea had been pre-identified. The pre-identification was revoked in April 2015 even though the Korean legislation was still unsatisfactory.

Imported products, including fish, must clear customs upon arrival on EU soil. A recent Court of Auditors report¹, however, found important weaknesses and loopholes that mean that EU customs controls are not being applied effectively. Problems noted include declaring a false country of origin, which has obvious implications for the subject of this report.

Market standards

The common organisation of the market (Reg. 1379/2013) includes provisions on the market for most fishery and aquaculture products, including information that must be on the label. It allows for the development of marketing standards for EU-produced and imported fish, relating to such matters as quality, freshness, size, etc.

Concerning labelling, the obligatory information for the consumer - species, production area and method, including gear type for wild fish - only applies to a small part of the total market, as it is not required for prepared, preserved or processed product such as canned fish, etc. Thus, the playing field is uneven in the EU with respect to traceability and information for the

¹ Special Report No 19/2017.

consumer.

With respect to marketing standards, the Commission has just launched a procedure to evaluate their utility and effectiveness, as the most recent was adopted over 20 years ago. This is a welcome development, as it allows consideration of marketing standards that go beyond product quality, in order to allow higher standards to be imposed on imported fish, to ensure that they meet certain minimum criteria on conservation, such as minimum size for the fish. Calculations provided by DG MARE show that current marketing standards, largely dealing with freshness and size categories, apply to 75% of EU landings, but less than 10% of imports.

Labour Standards

A number of international instruments exist for labour conditions, both for seafarers and fishers in particular. These include:

- Labour conditions - Covered by the Maritime Labour Convention for seafarers (ratified by 25 MS; incorporated by Dir. 2009/13) and ILO Convention 188 on Work in Fishing for fishers (ratified by 3 MS; partially incorporated by Dir. 2017/159). This Directive was established by the social partners via TFEU 155, since the MS were very slow to ratify the original Convention. Unfortunately no provisions for enforcement were included. Further, it does not include self-employed fishers unless they work on the same vessel.
- Vessel construction and seaworthiness - Covered by Safety of Life at Sea Convention for seafarers (ratified by all MS; incorporated by Dir. 1998/18) and Cape Town Agreement for fishers (ratified by 11 MS; only incorporated for vessels > 24m by Dir. 1997/70).
- Training and certification - Covered by Standards in Training, Certification and Watchkeeping Convention (STCW) for seafarers (ratified by all MS; incorporated by several directives) and the SCTW-F for fishers (ratified by 6 MS; not incorporated into the acquis). The social partners want to use the TFEU 155 procedure for this as well, which should be a priority for the Commission to pursue.

While the EU and MS are very active in meeting international standards concerning seafarers, they are extremely poor at extending the same consideration and protection to fishers (the standards themselves differ between seafarers and fishers). Given that there are far more fishers than seafarers, this constitutes a grave negligence on the part of the EU with respect to its obligation for the safety of the fishing industry and life at sea in general.

With respect to this report, clearly the EU has little credibility concerning labour standards for fishers in other countries, as it fails to assume its international responsibilities at home. Member States need to ratify these important instruments for the protection of fishers.

Control regulation

As with the IUU regulation, much has been written about the control regulation. While it suffers from some inconsistencies and ambiguities, it has been clear for many years that a principle problem has been the uneven application of the regulation by the Member States. Both the Commission's own evaluation, as well as a report by the Court of Auditors, note problems with verification of data, sharing of information among Member States, poor or

non-existent application of the point system, sanctions which were insufficiently dissuasive, among others.

On the relatively rare occasions where the Commission has taken a Member State to the ECJ over poor application of the control regulation, the result has been a notable improvement. For instance, after Spain was condemned by the ECJ in 2008¹, it rapidly its implementation of the control regulation.

The Commission has other tools of persuasion at its disposal as well, such as action plans, and it is to be regretted that it has not made wider use of them to improve the situation.

The Commission has declared its intention to revise the control regulation. As was noted in the Thomas report², any revision of the control regulation must be well targeted, retain effective rules to prevent, detect and sanction infringements and focus primarily on better implementation of norms among Member States. It must not entail a watering down of the highest standards of protection concerning labour, the environment, trade unions or society.

The revision must see a stronger, more effective and more harmonised control regime for the EU, including improved traceability of all fishery products.

But beyond improved traceability, in order to be non-discriminatory, the EU should require that all products marketed on its territory comply with the same level of conservation and management measures as well as hygiene requirements imposed by EU legislation.

¹ C-189/07.

² A8-0234/2016.

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the implementation of control measures for establishing the conformity of fisheries products with access criteria to the EU market (2017/2129(INI))

The European Parliament,

- having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC¹,
- having regard to the common fisheries policy (CFP) control regime, comprising Council Regulation (EC) Nos 1224/2009² and 1005/2008³, and Regulation (EU) 2017/2403⁴,
- having regard to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000⁵,
- having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁶,
- having regard to Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing⁷,
- having regard to the European Court of Auditors (ECA) Special Report No 19/2017 of December 2017 entitled ‘Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU’,

¹ OJ L 354, 28.12.2013, p. 22.

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006; OJ L 343, 22.12.2009, p. 1.

³ 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 1447/1999; OJ L 286, 29.10.2008, p. 1.

⁴ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008; OJ L 347, 28.12.2017, p. 81.

⁵ OJ L 354, 28.12.2013, p. 1.

⁶ OJ L 139, 30.4.2004, p. 206.

⁷ OJ L 316, 14.11.2012, p. 34.

- having regard to Rule 52 of its Rules of Procedure, as well as Article 1(1)(e) of, and Annex 3 to, the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,
 - having regard to the report of the Committee on Fisheries (A8-0000/2018),
- A. whereas the EU is the world’s largest market for fisheries and aquaculture products, absorbing 24 % of total global imports in 2016, and is dependent on imports for over 60 % of its consumption of such products;
 - B. whereas in its resolution of 8 July 2010 on the arrangements for importing fishery and aquaculture products into the EU¹, Parliament emphasised that one of the key aims of EU policy on fishery and aquaculture imports must be to ensure that imported products meet the same requirements that apply to EU production in every respect, and that EU efforts to make fishing sustainable were incompatible with importing products from countries that fish with no concern for sustainability;
 - C. whereas verifying that fish from EU producers meets EU phytosanitary standards is the responsibility of Member States, while for imported fish the Commission authorises third countries to identify establishments allowed to export fish products to the EU, provided that they can guarantee equivalent standards;
 - D. whereas there are numerous international instruments concerning fishers which should be ratified and implemented, such as International Labour Organisation (ILO) Convention No 188 on work in fishing (ILO C188), the International Maritime Organisation (IMO) Cape Town Agreement of 2012 and the IMO International Convention on Standards in Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F);
1. Notes that in order to place fishery and aquaculture products on the market, EU operators must comply with a wide range of regulations and meet strict criteria, including the rules of the CFP and phytosanitary, labour, vessel safety and environmental standards, all of which are underpinned by regimes to ensure compliance; is convinced that these combine to create high standards concerning the quality and sustainability of the product that EU consumers have legitimately come to expect;
 2. Is concerned that imports of such products are subject to fewer controls, the primary controls being phytosanitary standards and the Illegal, Unreported and Unregulated Fishing (IUU) Regulation², the latter having been designed solely to ensure that the product was caught in compliance with the applicable rules;
 3. Expresses its concern that different rules for placing fish on the market create a discriminatory market that adversely affects EU fishers;

Sanitary standards

¹ OJ C 351E, 2.12.2011, p. 119.

² Council Regulation (EC) No 1005/2008.

4. Is concerned that the system employed for verification of the phytosanitary standards of imported fishery products does not provide sufficient guarantees that the standards are always observed;
5. Notes that even the Commission's own Food and Veterinary Office (FVO) audits show that some countries are falling far short of ensuring that products meet the necessary health standards, at least as concerns fishing and processing vessels and reefers, thus putting EU consumers at risk;
6. Is alarmed that civil society observations of fishing vessels operating off West Africa over many years have demonstrated the difficulties in ensuring the traceability of products and respect for sanitary standards; believes that the veracity of the Directorate-General for Health and Food Safety certificates for third country fishing vessels cannot be fully relied upon;
7. Believes that allowing third countries to delegate to other selected third countries the right to award such certificates, even to a coastal State, is contrary to the concept of flag State responsibility which underpins the CFP, including the IUU Regulation;

Labour rights

8. Contrasts the commendable record of the Member States in ratifying labour conventions relating to seafarers with their exceedingly poor record in ratifying conventions relating to fishers, and urges them to ratify the relevant instruments promptly;
9. Congratulates the social partners for their success in the use of Article 155 of the Treaty on the Functioning of the European Union (TFEU) to negotiate Council Directive (EU) 2017/159¹, which partially implements ILO C188, while regretting that this does not cover self-employed fishers; urges the Commission to complete the process by putting forward a proposal for a complementary directive that includes enforcement provisions, as it has done for shipping;
10. Urges the Commission, in this connection, to initiate procedures for the use of Article 155 of the TFEU with respect to the STCW-F in order to improve safety at sea in fishing, which is widely recognised to be among the most dangerous professions in the world;

Trade policy

11. Regrets that conflicting signals are sometimes sent by the Commission to third countries, such as in negotiating free trade agreements (FTAs) or otherwise expanding access to the EU market with countries that have been pre-identified under the IUU Regulation or the Non-Sustainable Fishing Regulation²;
12. Insists that FTAs and other multilateral agreements with trade provisions negotiated by the Commission include chapters concerning fisheries that:
 - explicitly reinforce the requirements of the IUU Regulation and oblige the third

¹ OJ L 25, 31.1.2017, p. 12.

² Regulation (EU) No 1026/2012.

country to initiate a procedure to prevent IUU fish from entering its market, in order to keep them from arriving in the EU indirectly;

- require the third country to ratify and implement effectively key international fishery instruments, such as the UN Convention on the Law of the Sea, the UN Fish Stocks Agreement, the UN Food and Agriculture Organisation (FAO) Port State Measures Agreement and the FAO Compliance Agreement, and to adhere to the standards of the relevant regional fisheries management organisations (RFMOs);

considers that these provisions must be covered by legally binding dispute settlement mechanisms;

Marketing standards

13. Notes that while the provisions of Regulation (EU) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products apply to all fishery and aquaculture products, those on labelling for consumers only apply to a relatively small group of products, excluding prepared, preserved or processed products; considers that consumer information should be improved for these products, too;
14. Welcomes the Commission's recent launch of an evaluation of marketing standards first adopted decades ago in order to determine what standards should be applied in the light of today's marketing practices and the technologies available for product traceability;
15. Considers that marketing standards should include characteristics linked to sustainability, such as minimum size, the use of banned fishing gear, and protected species and zones;

Control regime

16. Considers that the three regulations comprising the control regime constitute a balanced package and have led to significant improvements in fisheries management in the EU;
17. Commends the Commission for the way in which it has enforced the IUU Regulation with respect to third countries, demonstrating that the EU can have tremendous influence on global fisheries in its role as a responsible market State; urges the Commission to continue to pressure other market States to implement measures to prevent IUU-caught fish from entering their markets;
18. Believes that the Commission and the Member States have failed to implement strictly and enforce all three regulations, as described in many documents, including those of the Commission, the ECA and independent observers;
19. Observes that failures in implementation have occurred in many aspects and include:
 - uneven levels of sanctions and implementation of the points system in different Member States;
 - sanctions that are not sufficiently dissuasive;

- unsatisfactory exchange of data among Member States;
 - poor traceability of fish, including as it crosses national borders;
 - poor control of weighing practices;
 - important differences in verification of imports and point of entry, including catch certificates;
20. Agrees that certain provisions of the regulations are open to interpretation and have hindered uniform implementation, but considers that with sufficient openness and political will, the Commission and the Member States could do much more through informal agreements and interpretations;
21. Reiterates the conclusion drawn in its resolution of 25 October 2016 on how to make fisheries controls in Europe uniform¹ that any revision of the Control Regulation² or the IUU Regulation be targeted and focused to deal only with those aspects that inhibit effective and even controls;
22. Insists strongly that revision must not lead to any weakening of the current measures, but rather should improve and strengthen the level playing field in fisheries controls, as the only possible way to guarantee the ‘common’ dimension of the common fisheries policy;
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- ◦
23. Instructs its President to forward this resolution to the Council and the Commission.

¹ Texts adopted, P8_TA(2016)0407.

² Council Regulation (EC) No 1224/2009.