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## **REPORT**

on the proposal for a Council regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing  
(COM(2007)0602 – C6-0454/2007 – 2007/0223(CNS))

Committee on Fisheries

Rapporteur: Marie-Hélène Aubert

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing  
(COM(2007)0602 – C6-0454/2007 – 2007/0223(CNS))**

### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2007)0602),
  - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0454/2007),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Fisheries and the opinion of the Committee on International Trade (A6-0193/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

#### **Recital 2 a (new)**

***(2a) In order to be compatible with World Trade Organisation rules on non-discrimination and national treatment, nothing in this regulation should result in discriminatory treatment with respect to measures taken to combat illegal, unreported and unregulated (IUU) fishing.***

### *Justification*

*In order not to be in violation of WTO obligations, these obligations should be mentioned in Article 1 as well.*

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) The outermost regions of the European Union, described in Article 299 of the Treaty establishing the European Community and in Article 349 of the Treaty of Lisbon, require particular attention in the fight against IUU fishing owing to the exceptional fragility of their ecosystems.***

## **Amendment 3**

### **Proposal for a regulation**

#### **Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) In accordance with the International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing, adopted in 2001 by the Food and Agriculture Organisation (FAO), IUU fishing means fishing activities considered as illegal, unreported or unregulated, ***where:***

#### ***1. Illegal fishing refers to activities:***

***- conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;***

***- conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention***

(5) In accordance with the International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing, adopted in 2001 by the Food and Agriculture Organisation (FAO), IUU fishing means fishing activities considered as illegal, unreported or unregulated.

*of the conservation and management measures adopted by that organization and by which the states are bound, or relevant provisions of the applicable international law; or*

*- in violation of national laws or international obligations, including those undertaken by cooperating states to a relevant regional fisheries management organization.*

**2. Unreported fishing refers to fishing activities:**

*– which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or*

*– undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.*

**3. Unregulated fishing refers to fishing activities:**

*– in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or*

*– in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with state responsibilities for the conservation of living marine resources under international law.*

### *Justification*

*This text belongs in the Article with definitions.*

#### **Amendment 4**

##### **Recital 13**

(13) The importation into the Community of fisheries products stemming from IUU fishing shall be prohibited; in order to make this prohibition effective and ensure that all imported products have been harvested in compliance with international conservation and management measures and, where appropriate, other relevant rules applying to the fishing vessel concerned, a certification scheme applying to all imports of fisheries products into the Community shall be put in place.

(13) The importation into the Community of fisheries products stemming from IUU fishing shall be prohibited; in order to make this prohibition effective, ***ensure traceability*** and ensure that all imported products have been harvested in compliance with international conservation and management measures and, where appropriate, other relevant rules applying to the fishing vessel concerned, a certification scheme applying to all imports of fisheries products into the Community shall be put in place.

### *Justification*

*This specific goal should be mentioned.*

#### **Amendment 5**

##### **Recital 14**

(14) The Community shall take into account the capacity constraints of developing countries in the implementation of the certification scheme.

(14) The Community shall take into account ***all*** the capacity constraints of developing countries in the implementation of the certification scheme ***and shall help them avoid potential non-tariff barriers to trade.***

### *Justification*

*It is not enough to just take the capacity constraints into consideration if the certification scheme is to be fully functional.*

#### **Amendment 6**

##### **Recital 14 a (new)**

***(14a) Aid could be made available, inter alia, in the form of financial aid and***



*technical assistance as well as training programmes.*

## **Amendment 7**

### **Recital 34**

(34) Cooperation between Member States, the Commission, and with third states is essential to ensure that IUU fishing is properly investigated and that the measures laid down in the present Regulation can be applied; a system for mutual assistance shall be established to enhance such cooperation.

(34) Cooperation, ***coordination and the exchange of good practices*** between Member States, the Commission, and with third states is essential to ensure that IUU fishing is properly investigated and that the measures laid down in the present Regulation can be applied; a system for mutual assistance shall be established to enhance such cooperation.

### *Justification*

*Coordination and the exchange of good practices are also necessary.*

## **Amendment 8**

### **Recital 37**

(37) This regulation identifies IUU fishing as violations of applicable laws, rules or regulations of particular gravity, as they seriously undermine the attainment of the objectives of the violated rules and put the sustainability of the stocks concerned ***or*** the conservation of the marine environment in jeopardy. Given its restricted scope, the implementation of this Regulation must relay on, and be complementary to, that of Council Regulation (EEC) No 2847/93, which establishes the basic framework for the control and monitoring of fishing activities under the Common Fisheries Policy. Accordingly, this Regulation reinforces the rules of Regulation (EEC) No 2847/93 in the area of port inspections of third country vessels (Article 28e, 28f and 28g), which are now abrogated and replaced by

(37) This regulation identifies IUU fishing as violations of applicable laws, rules or regulations of particular gravity, as they seriously undermine the attainment of the objectives of the violated rules and put ***the survival of fisheries operating legally,*** the sustainability ***of the sector and*** of the stocks concerned ***and*** the conservation of the marine environment in jeopardy. Given its restricted scope, the implementation of this Regulation must relay on, and be complementary to, that of Council Regulation (EEC) No 2847/93, which establishes the basic framework for the control and monitoring of fishing activities under the Common Fisheries Policy. Accordingly, this Regulation reinforces the rules of Regulation (EEC) No 2847/93 in the area of port inspections of third country vessels (Article 28e, 28f and 28g), which

the port inspection regime established in Chapter II of this Regulation. In addition, this Regulation provides for a regime of sanctions in Chapter X that applies specifically to IUU fishing activities. The provisions of Regulation (EEC) No 2847/93 relating to sanctions (Article 31) remain thus applicable to violations of the rules of the Common Fisheries Policy other than those addressed by this Regulation.

are now abrogated and replaced by the port inspection regime established in Chapter II of this Regulation. In addition, this Regulation provides for a regime of sanctions in Chapter X that applies specifically to IUU fishing activities. The provisions of Regulation (EEC) No 2847/93 relating to sanctions (Article 31) remain thus applicable to violations of the rules of the Common Fisheries Policy other than those addressed by this Regulation.

#### *Justification*

*It is necessary to specify the nature of the existing threat.*

### **Amendment 9**

#### **Article 1, paragraph 2**

2. To this end, each Member State shall take appropriate measures, in accordance with Community law, to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks as laid down in this Regulation.

2. To this end, each Member State shall take appropriate measures, in accordance with Community law ***and both multilateral and bilateral international obligations***, to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks as laid down in this Regulation.

#### *Justification*

*In order not to be in violation of multilateral or bilateral obligations these obligations should be mentioned in Article 1 as well.*

### **Amendment 10**

#### **Proposal for a regulation**

#### **Article 2 - point -a (new)**

*Text proposed by the Commission*

*Amendment*

***-a) IUU fishing means illegal, unreported or unregulated fishing, where:***

***1. Illegal fishing refers to activities:***

*- conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;*

*- conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the states are bound, or relevant provisions of the applicable international law; or*

*- in violation of national laws or international obligations, including those undertaken by cooperating states to a relevant regional fisheries management organization.*

**2. Unreported fishing refers to fishing activities:**

*– which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or*

*– undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.*

**3. Unregulated fishing refers to fishing activities:**

*– in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or*

*– in areas or for fish stocks in relation to which there are no applicable*

***conservation or management measures and where such fishing activities are conducted in a manner inconsistent with state responsibilities for the conservation of living marine resources under international law.***

*Justification*

*The definition of IUU fishing should appear in the Article on definitions, rather than in a Recital.*

**Amendment 11**

**Proposal for a regulation  
Article 2 – point a)**

*Text proposed by the Commission*

a) "Fishing vessel" means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, carrier vessels, fish processing vessels and vessels engaged in transshipment;

*Amendment*

a) "Fishing vessel" means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, ***for refrigeration, freezing or processing on board or for transport***, including support ships, carrier vessels, fish processing vessels and vessels engaged in transshipment;

*Justification*

*If the aim is to prevent IUU fishery products from entering the EU, it must be made clear that the regulation covers any type of vessel capable of transporting such products regardless of the form in which they arrive at Community ports or the quantities involved.*

**Amendment 12**

**Proposal for a regulation  
Article 2 – point (h)**

*Text proposed by the Commission*

(h) "Regional fisheries management organisation" means a subregional or regional organisation or arrangement with competence, as recognised under

*Amendment*

(h) "Regional fisheries management organisation" means a subregional or regional organisation or arrangement with competence, as recognised under

international law, to establish conservation and management measures for ***straddling fish stocks or highly migratory stocks*** occurring in the area of the high seas placed under its responsibility by virtue of its establishing convention or agreement;

international law, to establish conservation and management measures for ***fish stocks*** occurring in the area of the high seas placed under its responsibility by virtue of its establishing convention or agreement;

*Justification*

*Not all RFMOs are limited to straddling stocks or highly migratory species, so the definition here should be more general.*

**Amendment 13**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point j)**

*Text proposed by the Commission*

*Amendment*

(j) ***taken or*** landed undersized fish or

(j) landed undersized fish or

*Justification*

*Catching under-sized fish is not illegal, so should not be here.*

**Amendment 14**

**Proposal for a regulation**

**Article 3 – paragraph 2 – point (a)**

*Text proposed by the Commission*

*Amendment*

(a) carried out fishing activities in the area of a Regional Fisheries Management Organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation ***and*** is flagged to a state not party to that organisation, or

(a) carried out fishing activities in the area of a Regional Fisheries Management Organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation ***or*** is flagged to a state not party to that organisation, or

*Justification*

*Vessels that fly flags of countries that do not belong to the RFMO should count as IUU since by definition, they fish in an unregulated manner.*

## Amendment 15

### Proposal for a regulation

#### Article 4 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Access to ports of Member States, the provision of port services, and the conduct of landing, transshipment or on-board processing operations in such ports shall be prohibited for third country fishing vessels that are included on the Community list of IUU fishing vessels pursuant to Articles 26 and 29.***

*Justification*

*Independently of paragraph 2, it is not superfluous to clarify that access to Member State ports will be prohibited for vessels included in the IUU fishing list.*

## Amendment 16

### Proposal for a regulation

#### Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***2. Except in cases of force majeure,*** access to ports of Member States, the provision of port services, and the conduct of landing, transshipment or on-board processing operations in such ports shall be prohibited for third country fishing vessels unless they meet the requirements set forth in this Chapter and other relevant provisions of this Regulation.

2. Access to ports of Member States, the provision of port services, and the conduct of landing, transshipment or on-board processing operations in such ports shall be prohibited for third country fishing vessels ***other than those referred to in paragraph 1 a*** unless they meet the requirements set forth in this Chapter and other relevant provisions of this Regulation.

*Justification*

*Consistent with the new paragraph 1 a, so as to include vessels which are not included in the list of IUU fishing vessels and do not comply with the provisions of this regulation.*

## Amendment 17

### Proposal for a regulation

#### Article 4 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. In cases of force majeure or distress, fishing vessels referred to in paragraphs 1 a and 2 may access Member State ports to avail themselves of port services and the measures that are strictly necessary to deal with the emergency.***

*Justification*

*The new paragraph is necessary to include paragraphs 1 a and 2. Provision must also be made for situations of force majeure or genuine distress, but it is also necessary to ensure as far as possible that such circumstances do not facilitate the landing or transshipment of IUU fishery products.*

## Amendment 18

### Proposal for a regulation

#### Article 4 - paragraph 3

*Text proposed by the Commission*

*Amendment*

3. ***Transshipments*** between third country fishing vessels or between ***the latter*** and vessels flying the flag of a Member State shall be prohibited ***in Community waters and shall take place only in port***, in accordance with the provisions of this Chapter.

3. ***In Community waters, transshipments*** between third country fishing vessels or between ***third country fishing vessels*** and vessels flying the flag of a Member State shall be prohibited ***other than in designated ports***, in accordance with the provisions of this Chapter.

*Justification*

*To render the text clearer. It should be noted that the Long-distance fleet Regional Advisory Council calls for a ban on at-sea transshipment.*

## Amendment 19

### Proposal for a regulation Article 4 - paragraph 4

*Text proposed by the Commission*

4. *Vessels* flying the flag of a Member State ***shall not be authorised to tranship at sea catches from third country fishing vessels outside Community waters.***

*Amendment*

4. ***Outside Community waters, transhipments at sea between vessels*** flying the flag of a Member State ***or between vessels flying the flag of a Member State and third country fishing vessels shall be prohibited.***

*Justification*

*To render the text clearer. It should be noted that the Long-distance fleet Regional Advisory Council calls for a ban on at-sea transshipment.*

## Amendment 20

### Proposal for a regulation Article 5 – paragraph 1

*Text proposed by the Commission*

1. Member States shall designate ***a place to be used for landings*** or ***a place*** close to the shore (designated ports) where landings or transhipment operation of fish referred to in paragraph 2 are permitted

*Amendment*

1. Member States shall designate ***landing ports*** or ***places*** close to the shore (designated ports) where ***port services and*** landings or transhipment operation of fish referred to in paragraph 2 are permitted

*Justification*

*To clarify the wording and ensure greater consistency with paragraph 2, which also includes port services.*

## Amendment 21

### Proposal for a regulation Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Masters of third country fishing vessel or their representatives shall notify the competent authorities of the Member State

*Amendment*

1. ***Except in the event of force majeure,*** masters of third country fishing vessel or their representatives shall notify the



whose port or landing facilities they wish to use at least 72 hours before the estimated time of arrival at the port, of the following information:

competent authorities of the Member State whose port or landing facilities they wish to use at least 72 hours before the estimated time of arrival at the port, of the following information:

*Justification*

*If it becomes necessary to call at a port on account of weather conditions or a mechanical failure, it will not always be possible to comply with the requirement to notify the authorities 72 hours in advance.*

**Amendment 22**

**Proposal for a regulation**

**Article 6 – paragraph 1 – point g a) (new)**

*Text proposed by the Commission*

*Amendment*

***ga) quantities to be unloaded or transhipped.***

*Justification*

*The vessel may not necessarily intend to unload or tranship all the catches referred to in point f).*

**Amendment 23**

**Proposal for a regulation**

**Article 6 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. The Commission, in accordance with the procedure laid down in Article 52, may exempt certain categories of third country fishing vessels from the obligation stipulated in paragraph 1 for a limited and renewable period, or make provision for another notification period taking into account, inter alia, the distance between the fishing grounds, landing places and ports where the vessels***

***deleted***

*in question are registered or listed.*

#### *Justification*

*It is exceptions of this kind that hinder control and cause uncertainty among those responsible for enforcement. It is quite unclear why the Commission should have such discretion and no justification is given for the cases in which certain vessels would be exempt from the general obligation, or for what reasons.*

### **Amendment 24**

#### **Proposal for a regulation Article 7 – paragraph 4**

##### *Text proposed by the Commission*

4. By way of derogation to paragraphs 2 and 3 the port Member State may authorise port access and all or part of a landing in cases where the information referred to in paragraph 1 is not complete or its verification is pending, but shall in such cases keep the fish concerned in storage under the control of the competent authorities. The fish shall only be released to be sold, taken over or transported once the information referred to in paragraph 1 has been received or the verification process is completed. If this process is not completed within 14 days of the landing, the port Member State may confiscate and dispose of the fish in accordance with national rules.

##### *Amendment*

4. By way of derogation to paragraphs 2 and 3 the port Member State may authorise port access and all or part of a landing in cases where the information referred to in paragraph 1 is not complete or its verification is pending, but shall in such cases keep the **deep-frozen** fish concerned in storage under the control of the competent authorities. The fish shall only be released to be sold, taken over or transported once the information referred to in paragraph 1 has been received or the verification process is completed. If this process is not completed within 14 days of the landing, the port Member State may confiscate and dispose of the fish in accordance with national rules. ***Storage costs shall be borne by the operator.***

#### *Justification*

*It is not possible to store fresh fish for so long.*

*It should be made clear that, in the event of failure to provide all the information required, the costs arising from verification by the port state will be borne by the operator, since this will provide a further incentive for vessels wishing to enter ports to ensure that they comply with notification requirements.*

## Amendment 25

### Proposal for a regulation

#### Article 7 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. If the fish referred to in Article 7(4) is fresh, the fish shall be sold through the regular channels. The competent authorities shall retain control over the proceeds from this sale until the period referred to in Article 7(4) has elapsed.***

*Justification*

*Fresh fish should be sold after a number of days in order to prevent it from rotting.*

## Amendment 26

### Proposal for a regulation

#### Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall carry out inspections in their ports of at least **15%** of landings, transshipments and on-board processing operations by third country fishing vessels each year.

1. Member States shall carry out inspections in their ports of at least **50%** of landings, transshipments and on-board processing operations by third country fishing vessels each year.

*Justification*

*As all fishing vessels registered in Member States have to be inspected in port, it is discriminatory to inspect only 15% of third-country fishing vessels.*

## Amendment 27

### Proposal for a regulation

#### Article 9 – paragraph 2 – point d)

*Text proposed by the Commission*

*Amendment*

d) fishing vessels appearing in a list of presumed IUU vessels adopted by a Regional Fisheries Management Organisation notified in accordance with Article 29.

d) fishing vessels appearing in a list of presumed IUU vessels adopted by a Regional Fisheries Management Organisation notified in accordance with Article 29 ***which have not yet been***

*included in the Community list of IUU fishing vessels referred to in Article 26.*

*Justification*

*Consistency with the new Article 4(1 a).*

**Amendment 28**

**Proposal for a regulation**

**Article 9 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. These inspections shall comply with the rules and objectives previously laid down by the Commission and be uniformly conducted and implemented in the various Member States. Each Member State shall create its database, on the basis of requirements supplied by the Commission, in which all inspections carried out on its territory shall be recorded. The Member States shall grant the Commission access to their databases on request.***

*Justification*

*The inspections carried out by the Member States must all have the same level of stringency and quality as regards procedures, so as to prevent distortions or ambiguities in the process of considering the vessels inspected. To this end, criteria for inspections should be objectively laid down by the Commission. A database should be created in each Member State, and the Commission should coordinate this information in the interests of sustainable fishing.*

**Amendment 29**

**Proposal for a regulation**

**Article 10**

*Text proposed by the Commission*

*Amendment*

***Article 10 – Inspectors***

***deleted***

***1. Member States shall issue an identity document to each inspector. Inspectors shall carry and produce this document when inspecting a fishing vessel.***

***2. Member States shall ensure that inspectors carry out their duties in accordance with the rules laid down in this section.***

*Justification*

*This article is totally unnecessary and casts excessive suspicion on inspectors' working methods and suggests that the Member States might be so negligent as not to issue identity documents to their inspectors, which is quite unwarranted. Moreover, it is the Member States rather than the Commission that are competent with regard to inspectors.*

**Amendment 30**

**Proposal for a regulation**

**Article 12 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. If ***an*** inspector ***has serious*** reason to ***believe*** that a fishing vessel has engaged in IUU fishing activity in accordance with the criteria set out in Article 3, he shall:

*Amendment*

1. If ***the information gathered during the inspection gives the*** inspector ***sufficient*** reason to ***suspect*** that a fishing vessel has engaged in IUU fishing activity in accordance with the criteria set out in Article 3, he shall:

*Justification*

*The original version allows too much subjectivity in the task of inspection, to the detriment of legal guarantees, and the absence of such guarantees could have serious legal and economic consequences for the port state if the vessel turned out not to have committed any offence.*

**Amendment 31**

**Proposal for a regulation**

**Article 12 – paragraph 1 – point a)**

*Text proposed by the Commission*

a) note the infringement in the inspection

*Amendment*

a) note the ***presumed*** infringement in the

report;

inspection report;

*Justification*

*Consistency with the new wording of the introductory part of Article 12(1).*

**Amendment 32**

**Proposal for a regulation**

**Article 12 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) halt landing, transshipment or on-board processing operations;***

*Justification*

*This point needs to be added to paragraph 1 to make the provisions clearer. Landing operations need to be halted in order to avoid any unwarranted consequences and costs.*

**Amendment 33**

**Proposal for a regulation**

**Article 13 - paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The importation into the Community of fishery products obtained from illegal, unreported or unregulated fishing shall be prohibited.

1. The importation into the Community of fishery products obtained from illegal, unreported or unregulated fishing ***in accordance with the criteria set out in Article 3*** shall be prohibited.

*Justification*

*To clarify exactly what is meant by IUU fishing activities.*

## **Amendment 34**

### **Proposal for a regulation Article 13 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. In order to make effective the prohibition established in paragraph 1, fishery products shall only be imported into the Community when accompanied by a catch certificate validated and verified in conformity with this Regulation.

*(Does not affect English version.)*

*Justification*

*(Does not affect English version.)*

## **Amendment 35**

### **Proposal for a regulation Article 14 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Catch documents, and any related documents, validated in conformity with catch documentation schemes adopted by a Regional Fisheries Management Organisation, which are recognised by the Commission as complying with the requirements set forth in this Regulation, shall be accepted as catch certificates in respect of the products from species to which such catch documentation schemes apply and shall be subject to the verification requirements incumbent upon the Member State of importation in accordance with Article 17 and to the provisions on refusal of importation laid down in Article 18.

*(Does not affect English version.)*

*Justification*

*(Does not affect English version.)*

## Amendment 36

### Proposal for a regulation Article 18 – paragraph 4

*Text proposed by the Commission*

4. Any person shall have the right to appeal against decisions taken by the competent authorities pursuant to paragraph 1 or 2 which concern him directly and individually. The right of appeal shall be exercised according to the provisions in force in the Member State concerned.

*Amendment*

4. Any ***natural or legal*** person shall have the right to appeal against decisions taken by the competent authorities pursuant to paragraph 1 or 2 which concern him directly and individually. The right of appeal shall be exercised according to the provisions in force in the Member State concerned.

*Justification*

*In addition to natural persons, legal persons may also be affected by decisions of the competent authorities.*

## Amendment 37

### Proposal for a regulation Article 20

*Text proposed by the Commission*

*Amendment*

#### ***Article 20 – Re-exportation***

***deleted***

***1. The re-exportation of products imported under a catch certificate in accordance with this chapter shall be authorised through the validation of a re-export certificate by the competent authorities of the Member State from which the re-exportation is to take place, on request by the re-exporter.***

***2. Re-export certificates shall contain all the information required in the form attached in Annex II and shall be accompanied by a copy of the catch certificates which have been accepted for the importation of the products.***

***3. Member States shall notify to the Commission their competent authorities for the validation and the verification of***



***re-export certificates.***

*Justification*

*Whilst the concern to ensure traceability is understandable, it is disproportionate to impose an endless series of requirements for certificates which may mean that something always remains to be complied with, notified, communicated or sent. If the regulation already makes it possible to assume that all imported products have been imported because they have been shown to be legal, it would be rather pointless to have to prove this once again when the product is re-exported from Community territory.*

**Amendment 38**

**Proposal for a regulation**

**Article 23 – paragraph 3 – point b)**

*Text proposed by the Commission*

*Amendment*

b) advise the flag state ***and, where appropriate, the state of re-exportation*** of the annulment; and

b) advise the flag state of the annulment; and

*Justification*

*Consistency with the amendment aimed at deleting Article 20 on re-exportation.*

**Amendment 39**

**Proposal for a regulation**

**Article 23 – paragraph 4 – point b)**

*Text proposed by the Commission*

*Amendment*

b) advise the flag state ***and, where appropriate, the state of re-exportation;***

b) advise the flag state;

*Justification*

*Consistency with the amendment aimed at deleting Article 20 on re-exportation.*

## Amendment 40

### Proposal for a regulation

#### Article 24 – title

*Text proposed by the Commission*

*Amendment*

Article 24 – ***Alleged*** IUU fishing activities

Article 24 – ***Procedure for detecting*** IUU fishing activities

*Justification*

*It does not appear legally correct to refer to mere alleged activities in a regulation of this scope.*

## Amendment 41

### Proposal for a regulation

#### Article 24 - paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. The Commission, or a body designated by it, shall compile and analyse all information on IUU fishing activities:

1. The Commission, or a body designated by it, shall compile and analyse all information on IUU fishing activities ***in accordance with the criteria set out in Article 3:***

*Justification*

*To clarify exactly what is meant by IUU fishing activities.*

## Amendment 42

### Proposal for a regulation

#### Article 24 – paragraph 1 – point b a) (new)

*Text proposed by the Commission*

*Amendment*

***(ba) Information on the sanctions and fines imposed on IUU vessels.***

*Justification*

*Data on the sanctions and fines imposed on IUU vessels should be assessed in order to evaluate the effectiveness of these measures.*

## Amendment 43

### Proposal for a regulation Article 25 – title

*Text proposed by the Commission*

Article 25 – ***Presumed*** IUU fishing activities

*Amendment*

Article 25 – ***Investigation of*** IUU fishing activities

#### *Justification*

*The title of the previous article referred to ‘alleged’ activities and the title here refers to ‘presumed’ activities. It is not only unclear where the difference lies but, as in the previous case, the amended version is more appropriate from a legal point of view, as well as being more in keeping with the content of the article.*

## Amendment 44

### Proposal for a regulation Article 25 – paragraph 2 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***-a) provide the information compiled by the Commission on the alleged IUU fishing activities, and a detailed statement of the reasons justifying inclusion in the Community list of IUU fishing vessels;***

#### *Justification*

*Before issuing an official request to the flag state that it take measures against an IUU fishing activity, it must be forwarded all the documentation and informed of the reasons that have led the Commission to identify the activity as an IUU activity.*

## Amendment 45

### Proposal for a regulation Article 25 – paragraph 2 – point c)

*Text proposed by the Commission*

c) notify the owner or, where appropriate, the operator of the vessels of the consequences which would result should the vessel be included in the European

*Amendment*

c) notify the owner or, where appropriate, the operator of the vessels of the consequences which would result should the vessel be included in the European

Community IUU Vessels List, as laid down in Article 36. Flag states shall also be requested to provide information to the Commission as to the vessel's owners or, where appropriate, operators so as to ensure that such persons can be heard ***if need be***, in accordance with Article 26(3).

Community IUU Vessels List, as laid down in Article 36. Flag states shall also be requested to provide information to the Commission as to the vessel's owners or, where appropriate, operators so as to ensure that such persons can be heard, in accordance with Article 26(3).

*Justification*

*The right to be heard cannot be taken away.*

**Amendment 46**

**Proposal for a regulation**  
**Article 26 - paragraph 1**

*Text proposed by the Commission*

1. The Commission shall establish the European Community IUU vessel list. This List shall include the vessels in relation to which, further to the steps taken pursuant Articles 24 and 25, the information obtained in accordance with this Regulation establishes that they are engaged in IUU fishing activities and whose flag states have taken no effective action in response to those activities.

*Amendment*

1. The Commission shall establish the European Community IUU vessel list. This List shall include the vessels in relation to which, further to the steps taken pursuant Articles 24 and 25, the information obtained in accordance with this Regulation establishes that they are engaged in IUU fishing activities ***in accordance with the criteria set out in Article 3*** and whose flag states have taken no effective action in response to those activities.

*Justification*

*To clarify exactly what is meant by IUU fishing activities.*

**Amendment 47**

**Proposal for a regulation**  
**Article 26 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission shall notify the flag state of a vessel's inclusion in the European Community IUU vessel list and***

***shall inform it in detail of the reasons for that vessel's inclusion in the list.***

*Justification*

*In addition to the owner and operator, the flag state must also be informed that one of its vessels is to be included in the IUU list, especially since it will then be required to take measures in this regard.*

**Amendment 48**

**Proposal for a regulation**

**Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Where one of an owner's vessels has been included on the Community list of IUU vessels, a detailed inspection shall be carried out on all that owner's vessels.***

**Amendment 49**

**Proposal for a regulation**

**Article 28 – paragraph 1 – point (h)**

*Text proposed by the Commission*

*Amendment*

(h) date of first inclusion on the IUU Vessel List;

(h) date of first inclusion on the ***EU*** IUU Vessel List ***and, if applicable, date of first inclusion on the IUU vessel list of one or more RFMOs;***

*Justification*

*The inclusion of a vessel on an IUU list managed by an RFMO should also be included in the information.*

## Amendment 50

### Proposal for a regulation

#### Article 28 - paragraph 1 - point (i) a (new)

*Text proposed by the Commission*

*Amendment*

**(ia) the technical specifications of the vessel concerned.**

*Justification*

*In order for the vessel to be identified properly, the technical specifications are also required.*

## Amendment 51

### Proposal for a regulation

#### Article 28 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The Commission shall take any measure necessary to ensure publicity of the European Community IUU vessels list, including by placing it on the DG Fisheries website.

2. The Commission **shall publish the European Community IUU vessels list in the Official Journal of the European Union and** shall take any measure necessary to ensure publicity of the European Community IUU vessels list, including by placing it on the DG Fisheries website.

*Justification*

*This will ensure that the list can be found in a specific official publication.*

## Amendment 52

### Proposal for a regulation

#### Article 30 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Commission, in accordance with the procedure established in Article 52, shall identify the third states that it considers as non-cooperating states in fighting IUU fishing activities.

1. The Commission, in accordance with the procedure established in Article 52, shall identify the third states that it considers as non-cooperating states in fighting IUU fishing activities, **on the basis of clear,**

*transparent and objective criteria.*

*Justification*

*Any listing of countries, which would have significant consequences, needs to be made on clear and objective criteria.*

**Amendment 53**

**Proposal for a regulation**

**Article 30 – paragraph 6 – point b (a) (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) whether the state concerned has ever been the subject of trade restrictive measures for fishery products adopted by an RFMO;***

*Justification*

*An important consideration when identifying countries, for example ICCAT has identified several countries for bans on various tuna imports when their vessels were conducting IUU activities.*

**Amendment 54**

**Proposal for a regulation**

**Article 30 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. Where appropriate, specific constraints of developing countries, in particular in respect to monitoring, control and surveillance of fishing activities, shall be duly taken into consideration in the implementation of this Article.

7. Where appropriate, specific constraints of developing countries, in particular in respect to monitoring, control and surveillance of fishing activities, shall be duly taken into consideration in the implementation of this Article. ***The Commission shall, within three months of the entry into force of this Regulation, publish an analysis of its probable impact on developing countries and a proposal for the funding of specific programmes to support its implementation and eliminate possible negative impacts.***

### *Justification*

*The proposal will have significant impacts on developing countries and the COM has promised to help in that regard. This amendment would require them to come up with a specific proposal.*

## **Amendment 55**

### **Proposal for a regulation Article 34**

#### *Text proposed by the Commission*

The Commission shall take any measure necessary to ensure publicity of *the* list of non-cooperating states, *in a manner consistent with any applicable confidentiality requirements*, including placing it on the DG Fisheries website. The list shall be regularly updated and the Commission shall provide for a system to automatically notify updates to Member States, Regional Fisheries Management Organisations and any member of the civil society that should so request. Furthermore, the Commission shall transmit list of non-cooperating states to the Food and Agriculture Organisation of the United Nations and to Regional Fisheries Management Organisations for the purposes of enhancing co-operation between the European Community and these organisations aimed at preventing, deterring and eliminating IUU fishing.

#### *Amendment*

The Commission *shall publish the list of non-cooperating states in the Official Journal of the European Union and* shall take any measure necessary to ensure publicity of *that* list of non-cooperating states, including placing it on the DG Fisheries website *in a manner consistent with any applicable confidentiality requirements*. The list shall be regularly updated and the Commission shall provide for a system to automatically notify updates to Member States, Regional Fisheries Management Organisations and any member of the civil society that should so request. Furthermore, the Commission shall transmit list of non-cooperating states to the Food and Agriculture Organisation of the United Nations and to Regional Fisheries Management Organisations for the purposes of enhancing co-operation between the European Community and these organisations aimed at preventing, deterring and eliminating IUU fishing.

### *Justification*

*This will ensure that the list can be found in a specific official publication. The phrase concerning confidentiality requirements has been moved to make it clearer that these requirements concern all forms of publicity.*



## Amendment 56

### Proposal for a regulation

#### Article 36 – point h (a) (new)

*Text proposed by the Commission*

*Amendment*

***(ha) Member States shall refuse to allow the export of a vessel flying their flag that is on the IUU list;***

*Justification*

*An EU ship-owner should not be able to get around the effects of having a vessel listed simply by changing flag.*

## Amendment 57

### Proposal for a regulation

#### Article 36 – point j a) (new)

*Text proposed by the Commission*

*Amendment*

***(j-A) The Member States may not under any circumstances grant support or subsidies to IUU vessels.***

## Amendment 58

### Proposal for a regulation

#### Article 37 – point h)

*Text proposed by the Commission*

*Amendment*

h) Member **States** shall inform importers, transshippers, buyers, equipment suppliers, bankers, and operators carrying out other services, of the risks associated with conducting business operations linked to fishing activities with nationals of any of such states;

h) **Each** Member **State** shall inform importers, transshippers, buyers, equipment suppliers, bankers, and operators carrying out other services **established on its territory**, of the risks associated with conducting business operations linked to fishing activities with nationals of any of such states;

*Justification*

*It is necessary to clarify who is to inform whom.*

## Amendment 59

### Proposal for a regulation Article 37 – point i)

#### *Text proposed by the Commission*

i) the Commission shall propose the denunciation of any standing bilateral fisheries agreement or fisheries partnership agreements with such states;

#### *Amendment*

i) the Commission shall propose the denunciation of any standing bilateral fisheries agreement or fisheries partnership agreements with such states ***where the text of the agreement concerned includes commitments on combating IUU fishing;***

#### *Justification*

*The denunciation of an agreement must be linked to areas that have been subscribed to in that agreement. Where this is not the case, the Commission may make use of other instruments.*

## Amendment 60

### Proposal for a regulation Article 41 – point a)

#### *Text proposed by the Commission*

a) the activities considered to constitute IUU fishing activities in accordance with the criteria set out in Article 3;

#### *Amendment*

a) the activities considered to constitute IUU fishing activities in accordance with the criteria set out in Article 3 ***and figuring on the list contained in annex (...) on serious infringements;***

#### *Justification*

*Article 3 only lays down criteria, which are moreover excessively wide in some cases. Greater precision is needed as regards which activities can be considered as IUU fishing and in what areas.*

## Amendment 61

### Proposal for a regulation Article 43 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that a natural person having committed or a legal person found liable for a serious infringement is punishable by effective, proportionate and dissuasive sanctions, which shall include fines of a maximum of at least EUR 300 000 for natural persons and of at least EUR 500 000 for legal persons.

#### *Amendment*

1. Member States shall ensure that a natural person having committed or a legal person found liable for a serious infringement is punishable by effective, proportionate and dissuasive **administrative** sanctions, which shall include fines of a maximum of at least EUR 300 000 for natural persons and of at least EUR 500 000 for legal persons.

#### *Justification*

*The original wording does not distinguish between administrative and penal sanctions when there are still legal doubts as to the Commission's powers in relation to penal sanctions and there are some Member States whose legal system makes no provision for applying penal sanctions in the field of fisheries.*

## Amendment 62

### Proposal for a regulation Article 43 – paragraph 2 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***2a. The Member States may also opt for penal sanctions provided that the amount of such sanctions is at least equivalent to that of the administrative sanctions.***

#### *Justification*

*Notwithstanding the statement made in the justification to the amendment to paragraph 1, provision should also be made for the possibility of applying penal sanctions if the legal system of the Member State in question so permits.*

## **Amendment 63**

### **Proposal for a regulation Article 45 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Other accompanying sanctions***

***45a. The sanctions provided for in this Chapter shall be accompanied by other sanctions or measures, in particular:***

***a) a temporary ban for at least the duration of the programming period, or a permanent ban on access to public aid or subsidies;***

***b) the repayment of public aid or subsidies received by IUU vessels during the relevant financial period.***

#### *Justification*

*IUU vessels must be barred from public assistance or subsidies for at least the period of the operational programme. Removal from the list of eligible beneficiaries should also be made mandatory so that taxpayers do not subsidise vessels and operators convicted of criminal activity. IUU vessels should not receive taxpayer support and vessels that have received taxpayers' money during the operational programme period should repay that money.*

## **Amendment 64**

### **Proposal for a regulation Article 53 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***-1. During the first year following the entry into force of this Regulation, six-monthly checks shall be carried out to determine Member States' preparedness fully to comply with its provisions; should any instances of non-compliance be identified, the Member State(s) concerned shall be required to make the necessary adjustments.***

*Justification*

*Full implementation of the proposed rules will require appropriate adjustments to be made in individual Member States as regards national law, inspection systems, funding requirements, training, etc.*

**Amendment 65**

**Proposal for a regulation**  
**Annex II**

*Text proposed by the Commission*

*Amendment*

***This annex is deleted.***

*Justification*

*Consistency with the amendment aimed at deleting Article 20.*

## EXPLANATORY STATEMENT

Illegal, unreported and unregulated (IUU) fishing is a serious and growing problem worldwide. The causes and importance of IUU fishing and the measures taken (and not taken) by the EU and the international community were discussed in the first Aubert report<sup>1</sup>. In that report, Parliament made a number of demands:

- improved implementation of CFP provisions to reduce IUU fishing by EU vessels (para 8)
- ban on trade in IUU fish (para 14 ii)
- creation of a Community register of IUU vessels (para 18, second point)
- common minimum penalties for infringements (para 18, third point)
- requirement that legal origin of fish be demonstrated before being offloaded or imported into EU (para 18, sixth point)
- ban on the entry into EU ports of IUU vessels and of their fish (para 20)
- importers, transporters etc urged to not deal with fish caught by IUU vessels (para 20)

These demands met with wide, cross-party support in both the Fisheries Committee and Parliament.

The Commission responded rapidly, by producing a timely and comprehensive proposal for a regulation to combat IUU fishing, wherever it occurs. The proposal deserves the full support of Parliament, for it is to a significant extent based upon the demands that Parliament itself has made. Indeed, if the proposal is adopted in its present form, it would put the Community at the forefront of international efforts to eliminate IUU fishing and in a position to put pressure on States which continue to allow IUU fishing by their vessels. Considering the Community's prominence as one of the largest fishing powers and the largest market in the world, the EU has a clear responsibility to be at the forefront.

The proposal is complex, but the essential elements consist of:

- the creation of a list of vessels (both EU-flagged and non-EU) that are involved in IUU fishing;
- a scheme of port state control that would prohibit access by third country IUU vessels;
- a ban on the importation of IUU fish, by requiring certification by the flag state that the fish is legal;
- the development of a Community Alert System when there is a suspicion that IUU fish has been detected;
- prohibition of importing fish from countries that have been identified as not cooperating with the EU scheme;
- provisions detailing what actions are to be taken in each of the above situations.

Clearly, there is a need to ensure full compatibility between this proposal and the "Control Regulation"<sup>2</sup> (which is to be the subject of a new proposal for a Council Regulation in October 2008).

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<sup>1</sup> A6-0015/2007, Report on the implementation of the EU action plan against illegal, unreported and unregulated fishing, EP resolution of 15 February 2007 (P6\_TA(2007)0044)

<sup>2</sup> Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy

## Controversial Aspects of the Proposal

There are three main aspects that are subject to controversy - the scope of the regulation, the catch certificate and harmonization of penalties.

### 1. Scope of the Regulation

The question here is whether the regulation should apply to EU-flagged vessels or only to the vessels of third countries.

It is obvious that the Community must apply the same rules to its own vessels and operators that it applies to others. Member States and parts of the industry argue that EU vessels are already regulated under the provisions of the Common Fisheries Policy (CFP), so they are fundamentally different from vessels from other countries. This is equivalent to saying "we are better than everybody else". This position is not valid for several reasons.

*First*, other countries have regulations to manage their fisheries, often very detailed ones and sometimes much stricter than those in the EU. Among the more detailed sets of regulations are those in Norway, Iceland, Canada, Australia and others. The EU is not alone in regulating its fisheries.

*Second*, it is a myth promoted by parts of the EU fishing industry and certain Member States that EU vessels are more strictly controlled than those from other countries. The recent report by the European Court of Auditors<sup>1</sup> showed clearly the extent to which Member States fail to enforce the CFP. There is not a "culture of compliance" in the EU, as even the industry itself has admitted. The Court's report has been widely circulated and other countries are now well aware of what happens in EU.

Among the most important IUU fishery scandals in recent years are bluefin tuna, cod in the Barents and Baltic Seas and Patagonian toothfish, all of which have significant EU involvement in terms of vessels or operators or importers. The EU is thus intimately involved in several major IUU fisheries in a wide variety of roles. While some countries such as China, Korea or the flags of convenience do little to implement the rules, there are many countries which consider the Community as part of the IUU problem, rather than an example to follow.

In the public consultation prior to the proposal's release, the Advisory Committee on Fisheries and Aquaculture (ACFA) has called for non-discriminatory measures when dealing with IUU fishing<sup>2</sup>.

If the provisions of the IUU regulation are not applicable to EU vessels, then it will be claimed, with justification, that the EU allows itself the privilege of conducting IUU fishing

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<sup>1</sup> Special report n° 7/2007 (OJ C 317 of 28.12.2007)

<sup>2</sup> ACFA – EP(07)38 final Brussels, 30 March 2007. ACFA opinion on a new strategy envisaged by the Commission for the fight against illegal, unreported and unregulated (IUU) fishing

while it criticizes others.

*Third*, were the EU to impose different regimes and conditions on IUU activities by EU and non-EU vessels, it would be discriminatory under the rules of the World Trade Organization (WTO). One of the consequences of a vessel appearing on the IUU vessel list would be a prohibition on the importation of fish from that vessel - in other words, a trade barrier. If the Community attempts to impose trade barriers for products from other countries based on measures that it does not impose on itself, it would be in clear contravention of WTO provisions on non-discrimination. The Community can and must position itself so that it is entitled to take action against those in third countries who continue to be engaged in IUU fishing.

## 2. Penalties to be Imposed

At present, sanctions applied by the various Member States differ widely and both the Commission and the Court of Auditors have noted that the fines are not dissuasive. Parliament has also long called for harmonized penalties, sufficient to be dissuasive, instead of a simple cost of doing business<sup>1</sup>.

Member States claim that imposing criminal sanctions is their competence, but a recent ruling by the European Court of Justice<sup>2</sup> said that the Community can require Member States to impose criminal penalties, while the nature or level of those penalties is up to the Member States. This, however, applies to criminal sanctions. The proposal does not call for criminal penalties, it merely tries to establish that the maximum fines that could be imposed are at a reasonable and dissuasive level. Further, having widely differing penalties is discriminatory against some EU fishermen.

Proper implementation of this regulation will require a strong integration at the Community level of the services responsible for inspection and control, including the creation of a corps of Community inspectors. Subsidiarity in this aspect of the CFP has clearly failed to deliver the needed level of compliance.

Since IUU vessels tend to concentrate on the most lucrative fisheries (bluefin tuna, cod) it is necessary that sanctions can be imposed that are high enough to be dissuasive.

## 3. Catch Certificate

The catch certificate would allow for far better traceability of the fish product and thus would be a major tool of the regulation. It has been described as too complex, but fishing in today's globalized world is a very complex business, with fish travelling all around the world between the time it is caught and the final sale to the consumer. Passing through multiple borders, ports and airports offers many opportunities to mix legal and illegal fish, in effect laundering the IUU fish. An effective and comprehensive system of traceability is essential to minimise amount of fish laundering that occurs

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<sup>1</sup> For instance see reports A5-0228/2002 (Attwool), A5-0470/2001 (Miguel Ramos) and A4-0298/1997 (Fraga Estevez)

<sup>2</sup> Case C-440/05 Commission v. Council, judgment of 23 October 2007



A number of Member States insist that the certificate must not be a barrier to trade, since the EU needs fish for its processing industry and its market. They do not want the system of certificates to affect the supply of fish to the EU. However, in certain fisheries, such as those mentioned above (bluefin tuna, cod etc), the percentage of IUU fish is very high, sometimes as much as half of the total catch or even more, and parts of the EU industry have benefited from this. Therefore, by definition, the scheme for traceability must have the possibility to interfere with the market, otherwise it will be of no use. Moreover, the bulk of the fish coming into the EU does not come from fisheries where the use of these certificates would cause an onerous burden, whereas it could allow IUU fish to be detected in other fisheries.

The Commission, the Member States and the industry need to work together to find a system that combines efficiency and effectiveness while keeping the administrative burden as low as possible, but the catch certificate must continue to be a pillar of the regulation. Otherwise the entire scheme will be merely cosmetic and have no serious impact on IUU fishing.

### Developing Countries

Many Developing Countries lack the resources (financial, logistical, administrative, human, etc) to fulfil the many surveillance and certification requirements that the proposed regulation would impose, if they wish access to the EU market. At the High Level Conference on eradication of IUU fishing held in Lisbon in October 2007, many partners from Developing Countries said that they want to help in the fight against IUU fishing but they need help in order to do so.

The proposal pays lip service to this need (Article 30) but contains no concrete initiatives. It is essential that the Commission work with these countries and conduct wide consultation with both their governments and their fishing and processing sectors (and not only those countries with which the EU has signed Fisheries Partnership Agreements) to enable them to set up appropriate surveillance programmes and traceability schemes so they are not denied the Community as an export market. Some Developing Countries have developed or are developing their own national Plans of Action on IUU Fishing, as called for under the FAO International Plan of Action to prevent, deter and eliminate IUU fishing. The Community (both the Commission and the Member States, in coordination) should help these countries identify their needs and then work to fulfil them.

### Consultation and Cooperation

The further improvement of the Community system of control, including both this regulation and the revision of the control regulation, will require wide collaboration and cooperation on the part of the Community institutions, the Member States, the Regional Advisory Councils and other stakeholders, including the sector and consumers, in terms of gathering and disseminating information.

### A Long Term Approach

As noted above, if this proposal is adopted in its present form, the EU would be a leader in the global campaign against IUU fishing. Even the Community, though, cannot do it alone, it

needs partners. It is therefore essential to step up its work through regional fisheries management organisations (RFMO) and other international fora to have provisions similar to those contained in this proposal adopted globally, by other countries or by international bodies, as appropriate.

If that is process leads to results, then the EU could truly claim that it is effectively combating IUU fishing.

9.4.2008

## **OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE**

for the Committee on Fisheries

on the proposal for a Council regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (COM(2007)0602 – C6-0454/2007 – 2007/0223(CNS))

Draftsman: Daniel Varela Suanzes-Carpegna

### **SHORT JUSTIFICATION**

Illegal, unreported and unregulated (IUU) fishing is one of the most serious threats to the sustainability of fish stocks and to marine biodiversity. This proposal by the Commission is thus very welcomed.

As the European Community is the biggest market and the first importer for fisheries products, it is very much up to the Community to put in place a system which prevents IUU fishing and as importantly its trading. It is though of utmost importance, that this system is in accordance with multilateral and bilateral international obligations.

The main objective of the certification scheme must be to ensure traceability. It needs to be possible to trace a certain product all the way from the catch to the final destination throughout the whole supply chain.

A big part of IUU fishing activities occurs either in international waters or in waters of the developing countries, where these disembarkments can take place. In order to ensure efficiency of the scheme, aid could be provided to developing countries. Member states and Commission could recognise that assistance will be required to help enable developing countries to comply with the EU and international requirements. Financial aid could be provided as well as training programmes. This would also avoid non-tariff barriers being created.

### **AMENDMENTS**

The Committee on International Trade calls on the Committee on Fisheries, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1  
Recital 2 a (new)

***(2a) In order to be compatible with WTO rules on non-discrimination and national treatment, nothing in this regulation should result in discriminatory treatment with respect to measures taken to combat IUU fishing.***

*Justification*

*In order not to be in violation of WTO obligations, these obligations should be mentioned in Article 1 as well.*

Amendment 2  
Recital 13

(13) The importation into the Community of fisheries products stemming from IUU fishing shall be prohibited; in order to make this prohibition effective and ensure that all imported products have been harvested in compliance with international conservation and management measures and, where appropriate, other relevant rules applying to the fishing vessel concerned, a certification scheme applying to all imports of fisheries products into the Community shall be put in place.

(13) The importation into the Community of fisheries products stemming from IUU fishing shall be prohibited; in order to make this prohibition effective, ***ensure traceability*** and ensure that all imported products have been harvested in compliance with international conservation and management measures and, where appropriate, other relevant rules applying to the fishing vessel concerned, a certification scheme applying to all imports of fisheries products into the Community shall be put in place.

*Justification*

*This specific goal should be mentioned.*

Amendment 3  
Recital 14

(14) The Community shall take into account the capacity constraints of developing

(14) The Community shall take into account ***all*** the capacity constraints of developing

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<sup>1</sup> Not yet published in OJ.

countries in the implementation of the certification scheme.

countries in the implementation of the certification scheme ***and shall help them avoid potential non-tariff barriers to trade.***

*Justification*

*It is not enough to just take the capacity constraints into consideration if the certification scheme is to be fully functional.*

Amendment 4  
Recital 14 a (new)

***(14a) Aid could be made available, inter alia, in the form of financial aid and technical assistance as well as training programmes.***

Amendment 5  
Recital 34

(34) Cooperation between Member States, the Commission, and with third states is essential to ensure that IUU fishing is properly investigated and that the measures laid down in the present Regulation can be applied; a system for mutual assistance shall be established to enhance such cooperation.

(34) Cooperation, ***coordination and the exchange of good practices*** between Member States, the Commission, and with third states is essential to ensure that IUU fishing is properly investigated and that the measures laid down in the present Regulation can be applied; a system for mutual assistance shall be established to enhance such cooperation.

*Justification*

*Coordination and the exchange of good practices are also necessary.*

Amendment 6  
Recital 37

(37) This regulation identifies IUU fishing as violations of applicable laws, rules or regulations of particular gravity, as they seriously undermine the attainment of the objectives of the violated rules and put the sustainability of the stocks concerned ***or*** the conservation of the marine

(37) This regulation identifies IUU fishing as violations of applicable laws, rules or regulations of particular gravity, as they seriously undermine the attainment of the objectives of the violated rules and put ***the survival of fisheries operating legally,*** the sustainability ***of the sector and*** of the

environment in jeopardy. Given its restricted scope, the implementation of this Regulation must relay on, and be complementary to, that of Council Regulation (EEC) No 2847/93, which establishes the basic framework for the control and monitoring of fishing activities under the Common Fisheries Policy. Accordingly, this Regulation reinforces the rules of Regulation (EEC) No 2847/93 in the area of port inspections of third country vessels (Article 28e, 28f and 28g), which are now abrogated and replaced by the port inspection regime established in Chapter II of this Regulation. In addition, this Regulation provides for a regime of sanctions in Chapter X that applies specifically to IUU fishing activities. The provisions of Regulation (EEC) No 2847/93 relating to sanctions (Article 31) remain thus applicable to violations of the rules of the Common Fisheries Policy other than those addressed by this Regulation.

stocks concerned **and** the conservation of the marine environment in jeopardy. Given its restricted scope, the implementation of this Regulation must relay on, and be complementary to, that of Council Regulation (EEC) No 2847/93, which establishes the basic framework for the control and monitoring of fishing activities under the Common Fisheries Policy. Accordingly, this Regulation reinforces the rules of Regulation (EEC) No 2847/93 in the area of port inspections of third country vessels (Article 28e, 28f and 28g), which are now abrogated and replaced by the port inspection regime established in Chapter II of this Regulation. In addition, this Regulation provides for a regime of sanctions in Chapter X that applies specifically to IUU fishing activities. The provisions of Regulation (EEC) No 2847/93 relating to sanctions (Article 31) remain thus applicable to violations of the rules of the Common Fisheries Policy other than those addressed by this Regulation.

#### *Justification*

*It is necessary to specify the nature of the existing threat.*

#### Amendment 7 Article 1, paragraph 2

To this end, each Member State shall take appropriate measures, in accordance with Community law, to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks as laid down in this Regulation.

To this end, each Member State shall take appropriate measures, in accordance with Community law **and both multilateral and bilateral international obligations**, to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks as laid down in this Regulation.

#### *Justification*

*In order not to be in violation of multilateral or bilateral obligations these obligations should be mentioned in Article 1 as well*

## PROCEDURE

<b>Title</b>	Community system against illegal, unreported and unregulated fishing
<b>References</b>	COM(2007)0602 – C6-0454/2007 – 2007/0223(CNS)
<b>Committee responsible</b>	PECH
<b>Opinion by</b> Date announced in plenary	INTA 11.12.2007
<b>Drafts(wo)man</b> Date appointed	Daniel Varela Suanzes-Carpegna 20.11.2007
<b>Date adopted</b>	8.4.2008
<b>Result of final vote</b>	+: 24 –: 0 0: 1
<b>Members present for the final vote</b>	Graham Booth, Daniel Caspary, Christofer Fjellner, Glyn Ford, Béla Glattfelder, Ignasi Guardans Cambó, Jacky Hénin, Syed Kamall, Alain Lipietz, Marusya Ivanova Lyubcheva, Erika Mann, Helmuth Markov, David Martin, Georgios Papastamkos, Tokia Saïfi, Peter Šťastný, Gianluca Susta, Daniel Varela Suanzes-Carpegna, Iuliu Winkler, Corien Wortmann-Kool
<b>Substitute(s) present for the final vote</b>	Jean-Pierre Audy, Sebastian Valentin Bodu, Ole Christensen, Rovana Plumb
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Catherine Neris

## PROCEDURE

<b>Title</b>	Community system against illegal, unreported and unregulated fishing		
<b>References</b>	COM(2007)0602 – C6-0454/2007 – 2007/0223(CNS)		
<b>Date of consulting Parliament</b>	7.12.2007		
<b>Committee responsible</b> Date announced in plenary	PECH 11.12.2007		
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	DEVE 11.12.2007	INTA 11.12.2007	ENVI 11.12.2007
<b>Not delivering opinions</b> Date of decision	DEVE 5.11.2007	ENVI 27.11.2007	
<b>Rapporteur(s)</b> Date appointed	Marie-Hélène Aubert 22.11.2007		
<b>Date adopted</b>	19.5.2008		
<b>Result of final vote</b>	+: 22 –: 0 0: 0		
<b>Members present for the final vote</b>	Jim Allister, Stavros Arnautakis, Marie-Hélène Aubert, Iles Braghetto, Luis Manuel Capoulas Santos, Zdzisław Kazimierz Chmielewski, Emanuel Jardim Fernandes, Carmen Fraga Estévez, Ioannis Gklavakis, Hélène Goudin, Heinz Kindermann, Rosa Miguélez Ramos, Philippe Morillon, Seán Ó Neachtain, Luca Romagnoli, Struan Stevenson, Catherine Stihler, Cornelis Visser		
<b>Substitute(s) present for the final vote</b>	Raül Romeva i Rueda		
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Willem Schuth, Kathy Sinnott, Kyösti Virrankoski		