



Brussels, 6th February 2008

AIPCE-CEP Position as regards the European Commission Proposal for a Council Regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

1. AIPCE welcomes this initiative and supports the four core proposals

AIPCE-CEP acknowledges the positive initiative taken by the European Commission to come up with this ambitious proposal. At the same time we highlight our full agreement on elements thereof:

- The burden of proof on the Flag state
- The use of international IUU black lists of transport and fishing vessels
- Establishing meaningful sanctions
- The principle of fighting IUU fishing both within and outside the EU

Nevertheless our industry is concerned by the practical hurdles we will very likely encounter as a result of some of the proposed measures.

At the same time we would like to point out that we are concerned that fish captured for fish and animal meal is not covered by the scope of the proposal. There could be the possibility that fish identified for fish meal could enter to the retail market thereby escaping the proposal against IUU.

2. The requirement to address IUU within and outside the EU equally

In order to tackle the IUU fishing it is necessary to take measures against the operators that infringe the law **regardless of their origin**. However in the proposal the imports are subject to a burdensome system which **is not balanced** in relation to the measures planned for IUU fishing within the EU. As a principle, both IUU fishing from outside and inside the EU must be treated on an equal footing.

3. The need to improve practical and institutional issues

We should pay attention to the fact that the system proposed is based on a Northern industrial and developed Fishery which disallows for taking into consideration the limitations of third countries. In many cases undeveloped countries have limited enforcement resources and when applying this proposal it is very probable they will not be able to prove that they are conforming to the law. Therefore this regulation could represent **a barrier to trade**.

In this line, if we take the example of a third country A landing fish into another third country B, neither of which may have the necessary infrastructure to record and cross-check landing data. Nevertheless these countries could still be important exporters to the EU, particularly, for example in the case of tuna, which may be flown into the EU on a regular basis. As a result there will be more barriers to imports since they will encounter problems on how to apply the certificate. This policy requests therefore, much international cooperation and

commitment from the third countries which very often are not able to do this: the proposal is likely to prevent both legal and illegal fishing into EU.

From discussions with Member States Authorities we are aware that there is concern over the burden of checking and confirming all of the certificates and data required. Currently it is evident that the staffing at border inspection posts is not adequate for the proposed task and we wonder what budgeting proposals are in place above current EU and National level to address this. As processors we have great concern that the burden of checking and proof may be placed upon us. However we do not have the necessary structure in place to do this work and it must be recognised that there is a very large sector and the industry will never be able to do this.

4. The need to recognise the importance of trans-shipping in certain fisheries

The proposed system does not recognise the need for controlled and regulated transshipment of captured fishery products from the catching vessel to transportation vessels at sea. In distant water off-shore fisheries, transshipment is often a necessary means of ensuring an efficient deployment of fishing vessel effort. Whilst we recognise that this practice introduces a 'risk' of losing product traceability and a potential avenue for IUU catches to enter ports, we consider such precedents as the **NEAFC** requirements already in place for the Barents Sea cod fishery as a satisfactory means of controlling this process.

Properly documented and controlled transshipment from catching vessels to legitimate registered carrier vessels, managed at an RFMO level would facilitate the on-going continuation of this practice whilst retaining whole-chain traceability to vessel.

5. The need to recognise the dynamic nature of blacklists

As regards the use of **black lists**, we call on a **transparent and flexible system** which provides public information on the process to include/remove a vessel in the list and which makes regular up-dates of the list so as to allow vessels continue their activity lawfully since the moment they have been proven and observed to do so.

6. The need to establish a practical and achievable system (According to Art.15)

In practical terms, there are some points which should be underlined:

6.1. The first declaration by the Flag State could be an appropriate measure when dealing with a direct import (Art.15.1). When the fish is landed in or subsequently sent for further processing in third countries the application of the systems becomes very complicated (Art.15.2).

For instance, in the case of buying fish in Norway and sending it to China, afterwards it is necessary to rely on the factories that are sending back the products with a certificate proving the legality of the first landing in Norway, a difficult task made even more complicated if the batch of processed products is a composite of catches from several small vessels (Art.15.2). This can be further complicated since the original fish batches may be used to supply international trade, so for instance fish loins could be destined for the EU whilst fish tail portions and composite blocks could be destined for the international trade. Hence mass balance would be difficult to ascertain.

Just as we have raised the concern as to who the authorities would be at EU Border inspection posts, we are very concerned with respect to third country authority responsibilities for checking landing certificates and cross-referencing these with the Flag states. Similarly we wonder how there will be coordination between the point of landing and subsequent processing in the fish and issuing of certificates.

6. 2. Although the importer can submit a legal declaration the total legality cannot be certified, the operator can only prove his diligence to avoid materials related to IUU fishing. In realistic terms we have to bear in mind that a paper system is not able to handle the complexity of whole chain traceability, particularly when it comes to multiple or composite batches.

As above-mentioned while the system proposed could be appropriate for landing and direct buy - which is the simplest case we see in practice - the system would appear to be incapable of addressing the many challenges of multiple changes in ownership, location, batch amalgamation and multiple end users.

6. 3. The system put forward implies much administration and resources for operators and authorities:

- As the proposal stands there is well a risk that one consignment can end up with multiple certificates due to the different origins of the merchandise. In the case of small scale artisanal fishery vessels which feed into the collector of an exporter for central processing, the number of catch certificates could run into hundreds for a single consignment.
- In the case of artisanal fisheries the potentially poor literacy of the fishermen would preclude the submission of written testimonies of legality
- Although it is clear that the responsibility lies on the Flag State, resources are needed to implement the checks
- Operators are already requested to submit many papers: this system implies an additional paper work.

7. Some considerations for a practical solution

In the light of our concerns we request that the European Commission draws its attention to the impracticable nature of the proposed system and reflects on the detrimental and burdensome consequences of its implementation. We urge the EU to take measures against IUU fishing, but we propose a modification which takes into account the practical problems:

a) Control should be made where it is easy to be done, e.g. via certificates delivered at the landing point. According to article 15.2 of the proposal, when the fish enters into a factory the processor has to guarantee that he only processes legal raw material – which in practice entails much administration. The best solution would be to prove that it is legal at a stage before being delivered to the factory.

b) The exporter could be requested to submit a certificate of legality, but it is necessary that the EU certificate is flexible enough to let them prove that it is a legal product derived from legitimate sources.

c) On several occasions it has been stressed the interest to link the IUU measures to the certificates already in force i.e. health certificate, with the aim to make it easier for operators already used to that system and for third countries which work already with it.

d) Given the complexity of the problem and consequently of the policy to tackle it, we stress the need to carry out a risk based analysis to avoid possible devastating consequences.

AIPCE-CEP reiterates the importance of fighting against IUU fishing by taking the appropriate measures applied equally to every operator whatever is his origin, which are not detrimental to trade and to the EU processing industry in particular and which implementation is feasible.