



## **LONG DISTANT FLEET ADVISORY COUNCIL**

### LDAC RECOMMENDATION FOR A RESOLUTION ESTABLISHING A CODE OF CONDUCT REGARDING THE PROCEDURE OF INCLUSION OF A FISHING VESSEL IN THE PROVISIONAL IUU LISTS OF RFO'S.

Status: approved by the Excom  
Reference: R-02-14/WG1  
Original drafting language: English

Fishing is one of the earliest economic activities of many peoples in the world contributing to the subsistence of the world population. It is a complex activity confronted to numerous challenges and often carried out under very difficult conditions. For example, the Indian Ocean where fishermen must carry out their jobs under protection of military or private security teams for they face the possibility of suffering a pirate attack.

Regional fisheries organisations play a critical role in the conservation of fishery resources in the long term and therefore in the battle against illegal, unreported and unregulated (IUU) fishing. Lists of vessels presumed to have participated in illegal, unreported and unregulated fishing or whose participation has been confirmed by various regional fishing organisations are public and may be consulted on the various websites of these organisations

Although the identification of a ship in a provisional IUU list of A RFO will not translate into a loss of rights or penalties under this RFO until it has been confirmed by such RFO in accordance to the established procedure, it may generate effects and damages to the operator of the allegedly infringing ship both operationally and in terms of image. This will be dependent upon the interpretation of the situation the different riparian countries and the public itself can make.

So the contracting parties and international organisations must work in good faith, setting aside their individual interests to adopt a well defined and transparent procedure that ensures that the decision to place a fishing vessel in an IUU provisional list of an RFO is taken based on objective facts.

Even if a State carries out its responsibility and exerts its powers in the monitoring and control of its fleet there is always some room for IUU fishing.

But qualifying an operation as “illegal fishing” must contain elements of proof that go beyond a simple alleged fishing violation. Such an infringement, if proved, would result in the appropriate administrative or legal proceedings, in compliance with the due process. (*Audi alteram partem*)

In cases which gather the necessary elements for a RFO to examine possible violations classified as suspected IUU fishing, the parties must act in good faith and not use this pre-identification in the provisional IUU list of an RFO to take measures or favourable rulings in litigation against the operator of the alleged offending vessel.

Contact details for correspondence:  
C/ Doctor Fleming 7, 2ºD. 28036 Madrid (SPAIN)  
Phone: + 34 91 432 36 23 Fax: + 34 91 432 36 24 e-mail: [secretaria@ldac.eu](mailto:secretaria@ldac.eu)



## **LONG DISTANT FLEET ADVISORY COUNCIL**

Additionally RFOs should ensure that the processes of identifying vessels engaged in IUU fishing, ensures as much transparency and guarantees as possible, respecting the principles of presumption of innocence and confidentiality, guaranteeing the possibility of defence of the flag State of the vessel identified as a possible offender in the same conditions as the State which transmits the complaint, both in form and time.

RFOs are no courts or tribunals nor are they technically trained to examine and judge cases in which different interpretations of existing regulations or conflict of sovereignty or delimitation of territorial waters are involved. While States must report to RFOs incidents or alleged infringements of the regulations, this must not prevent following adequate administrative or judicial channels in court whether in the State submitting the complaint or in international courts, where it is more likely that the judicial guarantees to the alleged infringer are fully respected, abiding by the basic presumption of innocence and all contradictory proceedings.

Therefore the contracting parties and international organizations should cooperate and, with the utmost urgency, develop and adopt a code of conduct and rules that clearly defines the process of placing a fishing vessel on an RFO provisional IUU list based on the principle of the presumption of innocence, good faith. The consideration of the request to place a fishing vessel on the provisional IUU list of RFOs should always be the last resort when other diplomatic, administrative, judicial remedies have been exhausted

Contact details for correspondence:

C/ Doctor Fleming 7, 2ºD. 28036 Madrid (SPAIN)

Phone: + 34 91 432 36 23 Fax: + 34 91 432 36 24 e-mail: [secretaria@ldac.eu](mailto:secretaria@ldac.eu)