



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels,
MARE/B4/AB (2021)

Subject: Your recommendations on fostering the European Union’s leadership in reducing the detrimental impact of flags of convenience in the fishing sector

Dear Mr. Reis Santos,

I would like to thank you for the joint MAC-LDAC advice of 8 October 2021 on the above-mentioned subject.

The issue of Flags of Convenience (FoCs) is a major issue in the fisheries sector, in particular in relation to compliance with the applicable rules. The fact that vessel operators choose to (re)flag IUU fishing vessels to FoCs in order to avoid certain regulations, controls and/or enforcement actions, is a long lasting issue in our fight against IUU fishing. As you rightly mention the issue of flag States not abiding to their international obligations has been identified by the Commission as one of the main challenges in implementing the EU IUU Regulation in its report to the European Parliament and the Council in December 2020.¹

As part of its “zero tolerance” approach to IUU fishing, we are fully committed to strengthening international governance and encouraging States to give effect to their responsibilities as flag States.

Regarding your first set of recommendations for the European Commission to “**fully adopt and/or implement existing measures designed to close the loopholes offered by non-compliant flags of convenience in fisheries**”, I would like to reassure that this is our objective.

¹ Report from the Commission to the European Parliament and the Council on the application of Council Regulation (EC) No 1005/2008 establishing a community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing (the IUU Regulation), COM(2020) 772, Brussels, 9.12.2020, [Register of Commission Documents - COM\(2020\)772 \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2020/772/oj).

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This means amongst others indeed that Member States should fully implement their obligations under articles 39 and 40 of the IUU Regulation concerning nationals supporting or engaging in IUU fishing under any flag, including foreign ones. Let me mention in this context in particular our ongoing work with Member States on nationals, which partially addresses the actions taken against nationals acting in support of FoCs. To support this work we have commissioned a study on nationals, which will address specifically the points raised in your letter. I therefore welcome your recommendations on this matter and will take them into account in order to deepen our actions in this field.

Regarding your second set of recommendations for the European Commission to **“use its bilateral relationships, work with partner countries and in international fora to reduce the detrimental impact of flags of convenience in fisheries”**, I would like to make the following remarks:

In the framework of the EU IUU Regulation and through our bilateral relationships with non-EU countries, DG MARE is working with concerned States to encourage them to abide by their responsibilities, in particular as flag States and increase their capacity to fight IUU fishing. We are also working with port States on this issue, since “ports of convenience” also attract FoCs vessels because of their weak control and enforcement measures in case of use of their facilities.

The dialogues we have established with non-EU countries are contributing to encouraging and supporting them in adopting effective laws and policies to fight against IUU fishing and to abide by their responsibilities as flag and port State notably. The issues you mentioned, such as better regulation of at-sea transshipments, the adoption and implementation of measures against their nationals supporting or engaged in IUU fishing, but also their management of fisheries licences and authorisations, are regularly addressed within those dialogues. Interagency and international cooperation are also encouraged, such as the use of mutual assistance between Member States and the Commission and with non-EU countries. It should also be noted that several bilateral IUU working groups have been established with major fishing countries, such as with the United States and Japan. They serve as platforms for regular exchanges and follow up on relevant actions to combat IUU fishing.

When informal dialogues are not enough in addressing identified shortcomings, the Commission may notify a non-EU country of the risk of being identified as a non-cooperating country in the fight against IUU fishing through the well-known “carding system”. This mechanism has most recently been used against a non-EU country, more specifically Cameroon, with weak flag State control.²

Regarding the EU catch certification scheme, I have also taken note of your suggestion to use e.g. non-signatory status to international treaties as a risk parameter for imports in CATCH. At the moment, we are waiting for the legal basis for CATCH to be adopted but I can assure you that any risk parameter assisting in check and verifications to ensure that only legally caught fish enters the EU market will be considered for future developments.

At the international level, raising awareness on FoCs and cooperating with likeminded partners is also essential in successfully addressing this issue. As you know from our reporting to the meetings of LDAC and MAC, we have for a number of years encouraged

² Commission Decision of 17 February 2021 on notifying the Republic of Cameroon of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (notified under document C(2021) 981) 2021/C 59 I/01 (available at this [link](#)).

port States to sign up to the Agreement on Port State Measures (PSMA), which today, including because of the efforts of the European Union, has 70 Parties (including the EU on behalf of its 27 Member States). In June 2021, the EU organised the third meeting of the Parties to the PSMA, which was also the first review meeting of this agreement, further promoting its implementation. We also strongly encourage the participation of non-EU countries to the “FAO Global Record” in order to foster transparency and traceability in this sector. In addition, the EU provides funding to the FAO for the PSMA implementation, Global Record and now the Global Information Exchange System (GIES). The EU has also commissioned a study to the FAO on transshipment and, on that basis, promoted the elaboration of international guidelines on this issue. Such guidelines should be negotiated in the framework of FAO - technical consultations are scheduled for March 2022 - with a view to be adopted in the FAO COFI in September. The EU is also commissioning a study to the FAO on the FAO Compliance Agreement by parties, which is the main instrument to fight FoC at the international level. Regarding other partners, you mention, such as INTERPOL, cooperation is ongoing. However, joining forces at the global or regional level to carry out coordinated law enforcement actions targeting vessels of interests with the support of such organisation, as suggested in your recommendation, is beyond the mandate of the EU Commission.

In the RFMO context, the challenge is to reach consensus on anti-IUU measures among contracting parties, and your recommendation as regards the ambitious proposals on increased transparency over beneficial ownership of vessels is duly noted. Please be reassured that one of the main principles guiding our policy in RFMOs is to further reinforce monitoring and control measures as well as compliance.

Bearing in mind our current efforts in effectively addressing FoCs in the context of our fight against IUU fishing, I nevertheless share your concerns that FoCs remain a challenging area where additional efforts are needed. Given the importance of this matter, your recommendations are particularly welcome, notably with regard to the update of the EU’s International Ocean Governance Agenda next year. They will be once again duly considered in order to intensify our actions in the above-mentioned areas.

I am looking forward to our continued fruitful cooperation. Should you have any further questions on this reply, please contact Ms Pascale COLSON, coordinator of the Advisory Councils (Pascale.COLSON@ec.europa.eu; +32.2.295.62.73), who will forward them to the relevant colleagues.

Yours sincerely,

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