

Copy of the letter received from the EUROPEAN COMMISSION, DIRECTORATE-GENERAL FOR FISHERIES AND MARITIME AFFAIRS

External Policy and markets
Brussels, 15.05.2006

Dear Mrs Bours,
Dear Mrs Gorez,

I would like to thank you for your letter to Commissioner Borg concerning illegal, unreported and unregulated (IUU) fishing in Guinea, and for the considerations that you convey regarding the IUU phenomenon in general. Mr Borg has requested me to reply in his name.

I value greatly your views as to the need to act in response to this illicit activity, particularly regarding the need for the Community to prevent access to its market of illegal catches.

Since the adoption of its Plan of Action in 2002, in response to the International Plan of Action agreed within the context of the FAO, the Community has promoted the adoption of numerous international measures aimed at combating IUU fishing through cooperative schemes. The Community has also been diligent in accepting and implementing the various international agreements and instruments cited in the document attached to your letter of which your organisations and others are signatories. I believe, nonetheless, that much remains to be done, including many of the measures called for in that document. The Commission has led an enquiry into the IUU fishing activities reported in the Guinean coast and is working on the basis of the information gathered to ensure that no Community vessels are involved in these activities.

But I would like to assure you that I am well in agreement of the priority that should be given to reinforcing port and market controls. The Commission services have implemented an inspection programme to monitor the implementation of measures taken by Member States in connection to third country fishing vessels landing in the Community. This programme is currently undergoing an evaluation phase to review the results of our inspections and consider possibilities for improvement. This programme provides our services with a state of play of port controls that should help in devising means to address concerns such as those you express, which I share.

Regarding market and trade-related measures, Community law already provides for the necessary legal basis to render illicit trade in IUU fish catches. In the various schemes adopted by regional fisheries management organisations we have implemented documentation schemes and statistical documents, both regarding the identification of, IUU vessels and regarding catch that assist control authorities in tracing legal catches.

These systems are, however, not infallible. The effectiveness of the sanctioning regime applied by Member States relies on identification and traceability, and there is still much to do to eliminate openings that might allow illegal catches through controls. We are however committed to enhancing our systems, particularly through seeking to improve the synergy between the different inspection and control schemes, from fisheries inspections at sea and in port to sanitary and customs controls.

Finally, I would like to comment on the fact that the Commission is quite aware that transshipments at sea pose a real problem in fisheries enforcement and have been used as a means to launder illegal catches. We have tried to promote a general prohibition of transshipments at sea that has met opposition from other fishing nations. As a consequence, the Community is pushing for the adoption of measures, particularly at RFMO level, aimed at effectively controlling these transshipments. Also in this regard, the concerns expressed in the annex to your letter meet those of the Commission services.

Yours sincerely,

César DEBEN
Director

Brussels, 3 May 2006
FISH/B-I D(2006)

Letter from the Environmental Justice Foundation and the Coalition for Fair Fisheries Arrangements (not dated, ref. Cab. A7085) - Evaluation of the annex

- The EJF/CFFA letter is accompanied by a document describing a campaign by EJF against IUU fishing and flags of convenience. The document counts 10 further signatories (including major environmental NGOs).

- The document stems from the results of NGO campaigns in the coast of Guinea Conakry that revealed substantial illegal activities, mainly by East Asian vessels, although four allegedly EC-flagged vessels (Italy) were also reported. The information was passed to our services earlier this year and prompted an enquiry. At this time, we have found in our records that these Italian vessels had been exported in 1999 and are declared as retired from the European fleet register. One vessel, however, is still flagging the Italian flag and is fishing under a Guinean experimental fishing license. For this vessel, the granting of the license by Guinea is not in conformity with the bilateral agreement concluded with the EC (Guinean authorities should not grant licenses of any kind outside those requested by the Community). DG FISH is currently considering the demarches to make with both the Italian and Guinean authorities to rectify the situation (including, as far as the Italian authorities are concerned, the need for them to discharge their duties in respect of nationals fishing under other flags, as it seems to be the case for at least three of the reported vessels). But it is important to underline that the main IUU problem in the region concerns Korean vessels.

- With regard to the demands made in the annex, many are already reflected in EC fisheries regulations. A brief account is provided below in the order of the items listed in the document:

(1) The EC IUU Action plan has been largely implemented as it focused mainly on international co-operation. The Community has, through the Commission, successfully reinforced the array of RFMO measures to identify IUU activities in RFMO regulatory areas. These measures entail obligations on port States to repress identified IUU vessels, deny landings and imports, and impose other sanctions where appropriate.

(2) The Community has subscribed the international agreements cited in the document and implemented them into its legal order. We supported the adoption of the FAO model port scheme and are promoting its implementation in RFMOs. We have been made aware that Norway might propose the launch of negotiations to convert this scheme into an international binding instrument. Such an initiative could have our support, and internal consultations will take place shortly regarding this issue.

(3) Regarding the Port of Las Palmas, the Community is aware of the complaints expressed by various organisations in respect of this location as an access point for IUU fish to the EC market. West African co-operation in enforcement and control has been an active area for the EC, with the implementation of regional enforcement co-operation

projects (in particular with the Subregional Fisheries Commission and COREP) funded by FED and Member State funds (see also MCS, below). Against this background, the Commission requested already in 2004, on occasion of the annual meeting of the Subregional Fisheries Commission held in Dakar, that white and black lists of vessels be established in respect of the activities taking place in the region. We made it clear that these lists are necessary in order to ensure a legal basis for port authorities (including those in charge of the port of Las Palmas) to take measures such as prohibition of landings and transshipment with regard to vessels identified as participating in IUU activities. The situation has been clearly assessed with the Spanish authorities, which are committed to implement the necessary measures but cannot act unless these lists are adopted. The Commission continues to work with coastal States in the region to achieve this result.

(4) Regarding market and trade-related measures, the demands made in the document are presented as ultimate objectives of the market access controls, and these are fully shared by our services. We have supported internationally agreed trade bans dictated by, for instance, ICCAT, and are pro-actively pushing for the improvement of the catch documentation schemes and statistical documents set in place by tuna organisations and by CCAMLR. Many species, however, are not covered by such schemes, even if they do cover species of high commercial value which are targeted by the IUU fleets. Improving synergies of the different inspection schemes and controls (fisheries, sanitary, customs) is a key element of our policy. But full traceability of all fish products is still an objective that will take time to attain.

(5) (and 6) Regarding the control of nationals and sanctions, the Community as a whole has assumed the need for effective action, but legal prosecution, sanctions and discouraging measures (against reflagging) remain within the scope of national Member State competences. The Commission has, nevertheless, intervened with Member States in justified cases (re. the IUU activities of vessels owned by Vidal Armadores).

(7) The Commission has consistently supported the development and implementation of national and regional/subregional fisheries monitoring, control and surveillance (MCS) programmes. Our initiative concerning the Indian Ocean is a recent case in point, but there is an established record of EC investment in this area. An illustration is the Southern Africa Development Commission programme on MCS, to which the EC contributed 15 Mio€ under the 8th EDF programming period.

(8) Regional co-operation is a keystone of our international fisheries policy and hardly requires commenting. We are in favour of public IUU lists of vessels, as seen in all RFMOs of which we are members.

(9) (and 10) Regarding vessel identification and markings, the EC regulations are up to standards in this field.

(11) Finally, regarding transshipment, the Commission has tried to push for a prohibition of at-sea transshipments. We first proposed this within the FAO context, at the time of the Fisheries Ministers meeting in 2005. The proposal met the opposition of other parties,

notably Japan. Currently, the Commission is promoting strict regulation of at sea transshipments as a compromise. The rules adopted by ICCAT last year are demonstrative of our concerns regarding the effects of this activity on fisheries controls.