

Dear Minister,

The notification of the Republic of Korea as flag State within the meaning of Article 20 of Council Regulation (EC) No 1005/2008¹ ("the IUU Regulation") was published on 1 January 2010.

The Commission with the support of the European Fisheries Control Agency (EFCA) carried out from 11 to 15 July 2011 an on-the-spot mission to the Republic of Korea within the framework of administrative cooperation pursuant to Article 20(4) of the IUU Regulation on the requirements set out under Article 20(1) of the IUU Regulation.

An on-the-spot mission report was provided to the Korean authorities on 15 July 2011.

The final mission report was sent to the Korean authorities on 5 October 2011; the comments of the Republic of Korea on the final report of the on-the-spot mission were sent to the Commission on 28 March 2012.

A subsequent on-the-spot mission of the Commission to the Republic of Korea was conducted from 17 to 18 April 2012.

The Republic of Korea submitted additional written representations on 26 January 2012, 16 May 2012, 8 June 2012, 25 June 2012, 6 September 2012, 9 October 2012, 21 December 2012, 8 March 2013, 13 March 2013, 22 April 2013, 31 May 2013, 19 June 2013, 21 June 2013 and 25 July 2013.

I wrote to you on 27 June 2013 and 24 September 2013, expressing concerns on the situation with respect to the Illegal, Unreported and Unregulated (IUU) fishing.

You replied with letter dated 17 June 2013 highlighting the views and actions of Korea on the IUU file.

You wrote another letter dated 6 November 2013 in which you highlight a number of upcoming changes in the Korean legislative and administrative framework.

Account taken of the current state of play of Korean actions and the broader context with respect to the fight on IUU fishing, subsequent actions are considered necessary.

Ms Yoon JINSOOK
Minister of Oceans and Fisheries
94, Dasom 2-Ro, Sejong City, 339-012
Republic of Korea

¹ OJ L 286, 29.10.2008, p. 1.

The attached Commission Decision notifies the Republic of Korea pursuant to the provisions of Article 32 of the IUU Regulation that the Commission is considering the possibility of identifying the Republic of Korea as non-cooperating third country. This notification is of a preliminary nature and does not imply as such any trade consequences.

The Commission Decision and the annexes to this letter present the findings that lead the Commission to consider the Republic of Korea as a non-cooperating third country.

It is therefore appropriate, in order to avoid being put on the list of non-cooperating countries as foreseen in Article 33 of the IUU Regulation, that your country establishes in close cooperation with the Commission services an action plan to rectify the shortcomings identified in the Commission Decision.

If, on the basis of the reports received from the Korean authorities, or of the further on-the-spot-missions carried out by the Commission within the framework of Chapter VI of the IUU Regulation, amendments to the action plan are deemed necessary, the Commission services will closely cooperate with your services.

As a consequence, the Commission invites the Republic of Korea:

1. to take all necessary measures to implement the actions contained in the action plan.
2. to assess the implementation of the actions contained in the action plan.
3. to send every six months a detailed report to the Commission assessing the implementation of each action as regards, inter alia, their individual and/or overall effectiveness in ensuring a fully compliant fisheries control system. Those reports should be sent to the Commission respectively by 15 June 2014, 15 December 2014 and 15 June 2015.

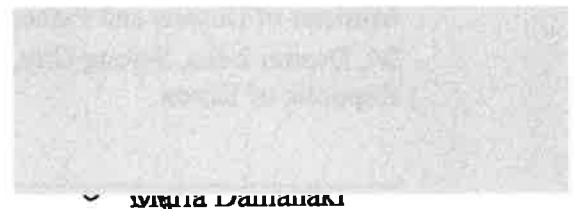
The competent services of the Commission would provide comments on the reports received from the Republic of Korea within one month of receipt of the reports. Such comments are without prejudice to a formal assessment by the Commission of the duties incumbent upon countries under international law as flag, port, coastal or market State or to the use of other instruments at the disposal of the Commission to ensure compliance with such rules.

Please note that there are no trade sanctions flowing from this Decision.

With this letter we are opening a process of dialogue with your country and I would like to inform you that the Commission considers a period of 6 months as being in principle sufficient for reaching an agreement with the European Union on this matter.

My services remain at the disposal of yours for any questions.

Yours sincerely,



Yvonne Damanaki

ANNEX I

The following Plan contains the suggested actions which the Republic of Korea should undertake in order to rectify the shortcomings identified in Commission Decision in order to avoid being proposed for formal listing as a non-cooperating third State, within the meaning of Article 33 of the Union's IUU Regulation and to the effects of Article 38 of the same Regulation.

Action	Description
Revision of the legal framework to remedy that lack of sufficient operational means to effectively monitor the long distance fishing fleet operating under the Korean flag.	The Competent Korean authorities should revise the existing legislation in compliance with Articles 62, 94 and 117 of the United Nations Convention on the Law of the Sea (UNCLOS) and Article 18 (3) (a) and 19 (1) of the United Nations Fish Stocks Agreement (UNFSA) in order to effectively control the vessels flying the flag of Korea in the High Seas as well as in third countries EEZs. Korea should ensure an effective monitoring of fishing vessels that can be engaged in IUU fishing activities, in particular, by developing a comprehensive VMS system and setting up an actual Fishing Monitoring Centre, in compliance with Article 18(3)e of the UNFSA. Korea should update its National Plan of Action against IUU fishing (NPOA) in line with recommendations set in recitals 25 to 27 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA IUU).
Revision of the legal framework and efficient enforcement of the existing legal provisions in order to put in force a deterrent sanction system.	The Competent Korean authorities should revise the existing legislation in line with Article 94 of UNCLOS, Articles 19 (1) (d) (e) and 21 (11) of the UNFSA, in order to establish effective and deterrent sanction system for the vessels flying the flag of the Republic of Korea in the High Seas and third countries EEZs. The new legislation should ensure an efficient recovery of the fines applied for depriving offenders of the benefits accruing from their illegal activities in line with the Article 19 (2) of the UNFSA. Inter alia, Korea should foresee provisions on nationals engaged in IUU fishing and provisions on responsibilities of the transformation industry on accepting fish stemming from IUU fishing activities. The Competent Korean authorities should review the existing legislation with respect to sanctions, typology of infringements and serious infringements taking into consideration the relevant international obligations and relevant RFMO's recommendations.

Action	Description
Ensure implementation and enforcement of revised national legislation.	The Competent Korean authorities should ensure implementation of its revised fisheries legislation (July 2013 Ocean Industry Development Act amending Korean Distant Waters Fisheries Act) through preparation of relevant clear and transparent implementing provisions. The competent Korean authorities should ensure enforcement of its revised fisheries legislation by its vessels in all waters, in compliance with article 94 of UNCLOS and 19 of the UNFSA.
Implementation of the existing national and regional legal framework and measures.	The Competent Korean authorities should ensure application of the existing provisions of the Korean Distant Waters Fisheries Act. The Competent Korean authorities should ensure compliance with CCAMLR, IOTC and ICCAT conservation and management measures by all Korean vessels in line with Article 18(3) of the UNFSA.
Ensure efficient enforcement and follow-up of infringements of the existing legal provisions in order to put in force a deterrent sanction system for all vessels.	The Competent Korean authorities should ensure efficient and effective enforcement and follow-up of infringements and deterrent sanctioning in relation to all Korean vessels, in compliance with Article 19 of the UNFSA, Article III (8) of the FAO Compliance Agreement and point 21 of the IPOA IUU.
Rectification of shortcomings identified regarding the activity of the Fisheries Monitoring Centre (FMC) in the framework of the catch certification scheme as well as in the framework of Regional Fisheries Management Organizations (RFMOs) of which the Republic of Korea is a Contracting Party or cooperating Non Contracting party.	The Competent Korean authorities should revise the existing legislation in line with Article 18 (3) (e) (g) (iii) and 18 (4) of the UNFSA in order to correct the deficiencies identified in terms of human resources, in terms of availability of data on the fishing vessels positions in real time or historic data, in terms of methods used and training of the officials in charge. In addition, the FMC should be more closely involved in the catch certification scheme set out under Chapter III of the EU IUU Regulation.
Creation of reliable inspection scheme, unloading reports, supervision of transshipment and monitoring of landing catches of the Korean flagged vessels operating in High Seas and third country fishing grounds or conducting landing activities outside the Exclusive Economic Zone (EEZ) of Korea.	The Competent Korean authorities should create in line with Article 18 (3) (f) and (g) of the UNFSA a reliable inspection scheme and unloading reports, supervision of transshipment and monitoring of landing catches in order to ensure an effective control on the activities of economic operators outside Korean EEZ and the control of the vessels flying the flag of Korea in the High Seas and third countries EEZs.

Action	Description
Strengthening of the administrative capacities in order to ensure effective monitoring of the vessels operating under Korea's flag.	The Competent Korean authorities should, having regard to Article 94 of UNCLOS, implement the necessary measures in order to strengthen administrative capacities necessary to fulfil Korea's international flag State duties, in particular, regarding resources and procedures.
Investigate and address effectively in term of sanctioning illegal fishing activities and Korean nationals operating in the High Seas and in the coastal States waters.	In line with Article 19 of the UNFSA, Korea should apply sanctions adequate in severity and effective in securing compliance and able to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities.
Correction of the administrative procedures in place for ensuring the reliability of the catch certification scheme, in particular by conducting verifications and crosschecking of information contained in the catch certificates.	The Competent Korean authorities should revise the existing legislation in line with Articles 94 of United Nation Convention on the Law of the Sea (UNCLOS) and Article 18 (3) (a) (b) (f) and (h) of the 1995 UN Fish Stocks Agreement (UNFSA) in order to have reliable sources of information for ensuring the efficient validation of catch certificates, set out under Chapter III of the EU IUU Regulation, by crosschecking of the information indicated by the economic operator in the catch certificates. These sources are among others: catch data, fishing licenses delivered by coastal States (in line with Article 18 (3) (b) (iv) of the 1995 UNFSA), Vessels Monitoring System (VMS) positions, transshipments and landing declarations, efficient traceability scheme (covering catch/transshipment/landing/transport/export/trading). The Competent Korean authorities should take measures to suspend temporary the catch certification for Korean flagged vessels that operate without fulfilling control and monitoring conditions (e.g. VMS) as set out by Korea, RFMOs and coastal States.
Ensure compliance with reporting and recording obligations within RFMOs.	In line with Article 118 and 119 of UNCLOS and with Article 18 of the UNFSA, the Competent Korean authorities should ensure the effective fulfilment of its reporting and recording obligations to the respective RFMOs.
Strengthening and improvement of cooperation with other States in the framework of RFMOs and bilaterally.	In line with Article 118 of UNCLOS and Article 20 of the UNFSA, the Competent Korean authorities should reinforce their cooperation in enforcement actions. The Competent Korean authorities should develop cooperation with coastal States ensuring exchange of information, control of operators and vessels actions and mutual assistance.

