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PECHE 440

## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision 2014/170/EU establishing a list of non-cooperating third countries in fighting illegal, unreported and unregulated fishing, as regards the Republic of Trinidad and Tobago

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**COUNCIL IMPLEMENTING DECISION (EU) 2023/...**

**of ...**

**amending Implementing Decision 2014/170/EU  
establishing a list of non-cooperating third countries in fighting illegal,  
unreported and unregulated fishing,  
as regards the Republic of Trinidad and Tobago**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999<sup>1</sup>, and in particular Article 33 thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> OJ L 286, 29.10.2008, p. 1.

Whereas:

- (1) Regulation (EC) No 1005/2008 establishes a Union system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.
- (2) Chapter VI of Regulation (EC) No 1005/2008 lays down the procedures with regard to the identification of non-cooperating third countries, *démarches* in respect of identified non-cooperating third countries, the establishment of a list of such countries, their removal from that list, the publicity of that list, and any emergency measures.
- (3) On 24 March 2014, the Council adopted Implementing Decision 2014/170/EU<sup>1</sup>, establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008.
- (4) In accordance with Article 32 of Regulation (EC) No 1005/2008, the Commission notified the Republic of Trinidad and Tobago ('Trinidad and Tobago'), by its Decision of 21 April 2016<sup>2</sup> of the possibility of its identification as a country which the Commission considers to be a non-cooperating third country.
- (5) In its Decision of 21 April 2016, the Commission included information on the essential facts and considerations underlying such possible identification.

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<sup>1</sup> Council Implementing Decision of 24 March 2014 establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 91, 27.3.2014, p. 43).

<sup>2</sup> Commission Decision of 21 April 2016 on notifying a third country of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (OJ C 144, 23.4.2016, p. 14).

- (6) The Decision of 21 April 2016 was notified to Trinidad and Tobago together with a letter inviting Trinidad and Tobago to implement, in close cooperation with the Commission, a plan of action to rectify the identified shortcomings.
- (7) By its Decision of 21 April 2016, the Commission opened a dialogue process with Trinidad and Tobago.
- (8) In particular, the Commission invited Trinidad and Tobago to take all necessary measures to implement the actions contained in the plan of action suggested by the Commission and to assess their implementation.
- (9) Trinidad and Tobago was given the opportunity to respond to the Decision of 21 April 2016 as well as to other relevant information communicated by the Commission, and to submit evidence refuting or completing the facts set out in that Decision. Trinidad and Tobago was assured of its right to ask for or provide additional information.
- (10) The Commission has continued to seek and verify all relevant information. The oral and written comments submitted by Trinidad and Tobago following the Decision of 21 April 2016 were considered and taken into account. Meetings were held between Trinidad and Tobago and the Commission, both in person and virtually, to discuss relevant points. Trinidad and Tobago was kept informed, either orally or in writing, of the Commission's considerations.

- (11) On the basis of the information gathered, the Commission established that the areas of concern and shortcomings set out in the Decision of 21 April 2016 had not been addressed sufficiently by Trinidad and Tobago. Moreover, the Commission concluded that the measures proposed in the plan of action had not been fully implemented.
- (12) As a consequence, the Commission adopted Implementing Decision (EU) 2023/2051<sup>1</sup>, identifying Trinidad and Tobago as a non-cooperating third country in fighting IUU fishing.
- (13) Based on the investigation and dialogue process carried out by the Commission, including the correspondence exchanged and the meetings held, and the reasons underlying the Decision of 21 April 2016 and Implementing Decision (EU) 2023/2051, it is appropriate to place Trinidad and Tobago on the list of non-cooperating third countries in fighting IUU fishing.
- (14) In the Decision of 21 April 2016, the Commission analysed the duties of Trinidad and Tobago and evaluated its compliance with its international obligations as flag, port, coastal or market State. For the purposes of that review, the Commission took into account the criteria listed in Article 31(4) to (7) of Regulation (EC) No 1005/2008.
- (15) The Commission reviewed the compliance of Trinidad and Tobago in line with the findings of the Decision of 21 April 2016, and with regard to the relevant information provided thereon by Trinidad and Tobago, the suggested plan of action, and the measures taken to rectify the situation.

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<sup>1</sup> Commission Implementing Decision (EU) 2023/2051 of 25 September 2023 identifying Trinidad and Tobago as a non-cooperating country in fighting illegal, unreported and unregulated fishing (OJ L 236, 26.9.2023, p. 26).

- (16) The main shortcomings identified by the Commission were related to several failures to implement obligations under international law, linked in particular to the adoption of an adequate and updated legal framework, the lack of efficient and adequate monitoring of fishing vessels flying the flag of Trinidad and Tobago and the lack of fisheries inspections at port. The identified shortcomings relate, more generally, to the lack of compliance with the obligations contained in the United Nations Convention on the Law of the Sea and of the Agreement on the implementation of Part XI thereof<sup>1</sup> (UNCLOS), the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish<sup>2</sup> (UNFSA) and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing<sup>3</sup> (PSMA).
- (17) By means of Implementing Decision (EU) 2023/2051, the Commission therefore identified Trinidad and Tobago as a non-cooperating third country pursuant to Regulation (EC) No 1005/2008.
- (18) No evidence has been found to suggest that the failure of Trinidad and Tobago to discharge its duties under international law is the result of its constraints as a developing country.
- (19) On the basis of the Decision of 21 April 2016, Implementing Decision (EU) 2023/2051, and the dialogue process with Trinidad and Tobago held with the Commission and its outcome, it is concluded that the actions undertaken by Trinidad and Tobago in light of its duties as flag State are insufficient to comply with Articles 94, 117, 118 and 119 of UNCLOS, Articles 18, 19 and 23 of UNFSA and Articles 6, 7, 8, 9 and 12 of the PSMA.

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<sup>1</sup> OJ L 179, 23.6.1998, p. 3.

<sup>2</sup> OJ L 189, 3.7.1998, p. 17.

<sup>3</sup> OJ L 191, 22.7.2011, p. 3.

- (20) Therefore, Trinidad and Tobago has failed to discharge its duties under international law as flag State to take action to prevent, deter and eliminate IUU fishing.
- (21) In view of the conclusions reached with regard to Trinidad and Tobago, that country should be added, in accordance with Article 33 of Regulation (EC) No 1005/2008, to the list of non-cooperating third countries established by Implementing Decision 2014/170/EU. That Implementing Decision should therefore be amended accordingly.
- (22) The inclusion of Trinidad and Tobago in the list of non-cooperating countries in the fight against IUU fishing entails the application of the measures laid down in Article 38 of Regulation (EC) No 1005/2008. Article 38(1) of that Regulation provides for the prohibition of importation of fishery products caught by vessels flying the flag of non-cooperating countries. In the case of Trinidad and Tobago, that prohibition should cover all stocks and species defined in Article 2(8) of Regulation (EC) No 1005/2008, as the lack of appropriate measures adopted in relation to IUU fishing which has led to the identification of Trinidad and Tobago as a non-cooperating third country is not limited to a given stock or species.
- (23) It is noted that IUU fishing, *inter alia*, depletes fish stocks, destroys marine habitats, undermines the conservation and sustainable use of marine resources, distorts competition, endangers food security, puts compliant fishermen at an unfair disadvantage and weakens coastal communities. In view of the magnitude of the problems related to IUU fishing, it is considered necessary for the Union to expeditiously implement the actions in respect to Trinidad and Tobago as a non-cooperating third country. Therefore, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

- (24) If Trinidad and Tobago demonstrates that the situation that warranted its listing has been rectified, the Council, acting by qualified majority on a proposal from the Commission, is to remove Trinidad and Tobago from the list of non-cooperating third countries in accordance with Article 34(1) of Regulation (EC) No 1005/2008. Any such decision on its removal should also take into consideration whether Trinidad and Tobago has taken concrete measures capable of achieving a lasting improvement of the situation,

HAS ADOPTED THIS DECISION:

*Article 1*

The Republic of Trinidad and Tobago is hereby added to the Annex to Implementing Decision 2014/170/EU.

*Article 2*

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at ...,

*For the Council*

*The President*

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