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PECHE 18

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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 Cameroon

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 Cameroon

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[1], and in particular Article 33(1) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 286, 29.10.2008, p. 1.

Whereas:

1. INTRODUCTION AND PROCEDURE

(1) Regulation (EC) No 1005/2008 (the 'IUU Regulation') establishes a Union system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.

(2) Chapter VI of the IUU Regulation lays down the procedure to identify non-cooperating third countries, the *démarches* in respect of such countries, the establishment of a list of such countries, their removal from that list, the publication of that list, and of any emergency measures.

(3) On 24 March 2014, the Council adopted Implementing Decision 2014/170/EU[1] 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.

(4) In accordance with Article 32 of the IUU Regulation, the Commission notified the Republic of Cameroon ('Cameroon'), by a decision of 17 February 2021[2] (the 'Decision of 17 February 2021'), of the possibility of its identification as a country which the Commission considers as non-cooperating third country.

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1 Council Implementing Decision 2014/170/EU 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).

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 (OJ CI 59, 19.2.2021, p. 1).

(5) In its decision of 17 February 2021, the Commission included information on the essential facts and considerations underlying such an identification.

(6) The decision of 17 February 2021 was notified to Cameroon together with a letter inviting Cameroon to implement, in close cooperation with the Commission, an action plan to rectify the identified shortcomings under the IUU Regulation.

(7) By its decision of 17 February 2021, the Commission opened a dialogue process with Cameroon.

(8) In particular, Commission invited Cameroon to take all necessary measures to implement the actions contained in the action plan suggested by the Commission, and to assess the implementation of those.

(9) Cameroon was given the opportunity to respond to the decision of 17 February 2021, as well as to other relevant information communicated by the Commission, and to submit evidence refuting or completing the facts stated in that decision. Cameroon was assured of its right to ask for, or to provide, additional information.

(10) The Commission has continued to seek and verify all relevant information. The oral and written comments submitted by Cameroon following the decision of 17 February 2021 were considered and taken into account and a virtual meeting was held between Cameroon and the Commission to discuss relevant points. Cameroon was kept informed, either orally or in writing, of the Commission's considerations.

(11) On the basis of the information gathered, the Commission took the view that the areas of concern and shortcomings set out in the decision of 17 February 2021 had not been addressed sufficiently by Cameroon. 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 of 5 January 2023 identifying Cameroon as a non-cooperating third country in fighting IUU fishing ('the Implementing Decision of 5 January 2023').

(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 17 February 2021 and the Implementing Decision of 5 January 2023, it is appropriate to place Cameroon on the list of non-cooperating third countries in fighting IUU fishing.

2. IDENTIFICATION OF CAMEROON AS A NON-COOPERATING THIRD COUNTRY

(14) In the decision of 17 February 2021, the Commission analysed the duties of Cameroon and evaluated its compliance with its international obligations as flag, port, coastal or market State. For the purpose of that review, the Commission took into account the criteria listed in Article 31(4) to (7) of the IUU Regulation.

(15) The Commission reviewed the compliance of Cameroon in line with the findings of the decision of 17 February 2021 and with regard to relevant information provided thereon by Cameroon, the suggested plan of action, and the measures taken to rectify the situation.

(16) The main shortcomings identified by the Commission were related to several failures to implement obligations under international law, in particular the failure to adopt an adequate and updated legal framework, the lack of clear and transparent registration and licensing procedures, and the lack of efficient and adequate monitoring of fishing vessels. The identified shortcomings were related, more generally, to the conditions established for the registration of fishing vessels and their control under international law. A lack of alignment with recommendations and resolutions from relevant bodies, such as the FAO International Plan of Action against Illegal, Unreported and Unregulated Fishing of the United Nations (IPOA-IUU) and FAO Voluntary Guidelines on Flag State Performance, was also identified. However, the lack of consistency of Cameroonian procedures with non-binding recommendations and resolutions was considered only as supporting evidence and not as a basis for the identification.

(17) In the Implementing Decision of 5 January 2023, the Commission therefore identified Cameroon as a non-cooperating third country pursuant to the IUU Regulation.

(18) Having regard to the possible constraints upon Cameroon as a developing country, it is noted that the development status and overall performance of Cameroon with respect to fisheries are not impaired by its general level of development.

(19) Having regard to the decision of 17 February 2021, to the Implementing Decision of 5 January 2023, and to the dialogue process with Cameroon held with the Commission and its outcome, it is concluded that the actions undertaken by Cameroon in light of its duties as flag State are insufficient to comply with Articles 91, 92, 94, 117 and 118 of the United Nations Convention on the Law of the Sea.

(20) Therefore, Cameroon has failed to discharge its duties under international law as flag State to take action to prevent, deter and eliminate IUU fishing.

3. ESTABLISHMENT OF A LIST OF NON-COOPERATING THIRD COUNTRIES

(21) In view of the conclusions reached with regard to Cameroon, that country should be added, in accordance with Article 33 of the IUU Regulation, to the list of non-cooperating third countries established by the Implementing Decision 2014/170/EU. That Decision should therefore be amended accordingly.

(22) The inclusion of Cameroon 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 the IUU Regulation. Article 38(1) of the IUU Regulation provides for the prohibition of importation of fisheries products caught by vessels flying the flag of non-cooperating third countries. In the case of Cameroon, that prohibition should cover all stocks and species defined in Article 2, point 8, of the IUU Regulation, as the lack of appropriate measures adopted in relation to IUU fishing which has led to the identification of Cameroon 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 of Cameroon 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 Cameroon 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 Cameroon from the list of non-cooperating third countries in line with Article 34(1) of the IUU Regulation. Any such removal decision should also take into consideration whether Cameroon has adopted concrete measures capable of achieving a lasting improvement of the situation,

HAS ADOPTED THIS DECISION:

Article 1

The Republic of Cameroon 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