



The Greens | European Free Alliance
in the European Parliament

27 June 2012

Re: Dangers of certification by chartering States in CITES

Dear Commissioner Damanaki
Dear Commissioner Potočník

The fight against Illegal, Unreported and Unregulated (IUU) fishing has been an important priority for the Commission and the European Parliament for many years. However, the Greens are concerned that if CITES adopts rules allowing chartering States to substitute for flag States, it will seriously undermine the EU's campaign to eradicate IUU fishing and to keep illegal fish out of Europe.

Fisheries management is founded on the principle of flag State responsibility. As provided for under international law, it is the flag State that must ensure that the conservation and management measures adopted by the international community are respected by vessels flying their flag. In cases where the flag State does not fulfil these responsibilities, the international community has developed sanction mechanisms. Unlike flag State, chartering State is not a status defined under international law, nor is it attached to any rules and sanction mechanisms.

Similarly, the EU's crucial IUU regulation depends upon a single State - the flag State - to accept responsibility for a vessel's activities and to sign the catch certificate accompanying shipments of fish products bound for the EU territory.

The increasing use of chartered fishing vessels without change of flag threatens the effectiveness of the tools put in place by the EU and the international community. It creates confusion as to which State is responsible for the vessel activities and for reporting and certifying the catches - the coastal State that charters the vessel, or the flag State. Many coastal States resort to chartering to find enough fishing capacity to exploit their fishing opportunities or to expand their fishing activities. Unfortunately, many coastal States lack the ability, or the political will, to adequately ensure that these vessels respect conservation and management measures and other obligations in their own waters, let alone in international waters.

The gravity of this problem is demonstrated by the number of RFMOs that have attempted to regulate chartering operations, only to find that the coastal State and the flag State each insist that the other is responsible. The recent total prohibition of the use of chartered vessels by New Zealand in its own waters is also indicative of the problems even for developed States.

Moreover, chartering arrangements concluded by many developing countries benefit very few people while allowing fishing activities detrimental to local fishing communities and the marine environment.

If Brazil and other chartering States wish to be truly responsible in the development and prosecution of their fisheries, and must charter vessels, they can use what is known as "bareboat charters", in which case the vessel flies the flag of the chartering State. That way, all is clear and the chartering State has recognized responsibility for the actions of the vessel.

It is clear that negotiations in CITES over the issue of introductions from the sea are being used to establish a precedent in order to counter and weaken measures against IUU fishing. The IUU regulation has been constantly under attack since its inception by various interests both inside and outside the EU and it would be disastrous if the European Commission let itself be used to unravel one of the most progressive tools against IUU fishing.

It is argued that currently, CITES does not provide rules or guidance over who issues the necessary documentation. According to this argument, the *status quo* is worse for IUU fishing and that the compromise - imposed primarily by Brazil and countries in Oceania - is an improvement since it would fill a legal void. However, we are convinced that the current text creates a bad precedent which will undoubtedly be used to weaken the fight against IUU fishing. Negotiations are needed for a better solution to this problem in CITES without leading to significant risk for fisheries management. As valuable and endangered as some species found on the CITES appendices may be, the total amount of fishing on the high seas is far greater than whatever might require CITES certification.

We urge the Commission to maintain its firm and credible insistence on the primacy of flag State responsibility, without any derogation or special conditions allowed for chartering States. Any weakening of this principle risks opening a Pandora's Box of management problems, including the rapid emergence of what we consider to be "chartering States of convenience".

Yours sincerely

Rebecca Harms (Co-President, Greens/EFA)

Satu Hassi (Greens/EFA Coordinator in Environment Committee)

Bas Eickhout (Member, Environment Committee)

Isabella Lövin (Greens/EFA Coordinator in Fisheries Committee)

Raul Romeva (Member, in Fisheries Committee)