The European Community And The Illegal Fishing: Measures Concerning The Fishery Market

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I. INTRODUCTION

Nowadays, one of the most important problems the fishing faces is the illegal, unreported and unregulated fishing. After verifying the growth in the last years of the illegal fishing, including the one carried out by fishing vessels flying flags of convenience, the FAO approved the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing (IPOA-IUU), ratified the 23rd June 2001 by the FAO´s Council. This new plan, elaborated as a voluntary instrument, tries to give all the States effective and transparent measures aimed to the control of this kind of fishing. The measures to which the IPOA-IUU makes reference are varied, but they all grant much more responsibility to the flag-State, the coastal State or the port State, as well as to the market State. The fact is that, if it is intended to fight against illegal fishing and try to attain a responsible fishing planning, the market might be regulated in an effective way. If the vessels that practise the illegal, unreported and unregulated fishing find no way to sell their stocks, they will not have any incentive to continue with these practices. That is why the measures concerning the fishery products market can be used as an effective instrument to prevent, deter and eliminate the illegal fishing.

Thus, our study is aimed at the examination of the measures applied for the fishery product imports and commercial transactions taking place in the territory of a determined international entity: the European Community (EC). The EC is one of the international entities more involved in the fighting against the illegal fishing, as revealed by the existence of a varied community legislation in this matter, adopted even before the approval of the IPOA-IUU. The legislation adopted in order to face the illegal fishing by means of the regulation of the home market and the international trade, stands out amongst all these varied legislations. Up to this point, we are going to study the role of the EC in the framework of a sustainable management of the resources from a commercial point of view, establishing the differences between, on one hand, the measures taken by the EC in order to regulate the market of the community fishery products (II) and, on the other hand, the trade measures adopted against the States carrying out illegal fishing that try to commercialise their products in the EC (III).

II. THE CFP AND THE RESPONSIBLE MARKET OF THE COMMUNITY FISHERY PRODUCTS

The Common Fisheries Policy (CFP) is aimed at the fulfilment of the responsible fishing objectives by means of the different instruments at its disposal. At a community level, two regulations allow the assurance of the link between responsible fishing and responsible trade. They are the market regulation (104/2000 regulation) and the control regulation (2847/93 regulation).

A. The *Market* Regulation As A Regulating Instrument On Responsible Trade

It seems to be clear that if its is pretended to control illegal fishing by means of a strict market regulation, the *market* regulation must be a fundamental piece of this system. The 104/2000 regulation echoes the concern about the responsible trade and, in its preamble (whereas 3) stresses the necessity that the measures to be applied in the fishery product market take into account the obligation of aid to the sustainable fishing. Thus, the instruments of the market organization must be used with the aim at regulating the market and at an optimal resources management. Starting from this premise, the *market* regulation regulates a series of questions intended to achieve a higher control of the commercialised product, with the aim of allowing them to be tracked, as well as to prevent the commercialisation of fishery products of illegal or non-sustainable nature

Firstly, the mentioned regulation provides a measure in agreement with the CFP, where one of the management and conservation basic instruments is the establishment of the TAC and quotas so that it is not permitted to fish more than the assigned quota stipulates. Nevertheless, if it did not exist any kind of sanction regarding the commercialisation of non-quota catches, the fishery sector will not have any incentive to pursue the fishing management aim. The 104/2000 regulation echoes this concern in article 9 and establishes a deterrent system for the commercialisation of non-quota products. As a matter of fact, the regulation provides a system of financial support in the case of a market intervention; such system could only beneficiate the producer organisations

having presented the competent authorities of the Member States (MS) a fishing campaign operational programme including, amongst other, a catch plan for the species with catch quota. This way, on one hand, the association of the producers in organizations and, on the other hand, the legal and responsible fishing are encouraged because the only possible way to benefit from community incentives and aids concerning the market is the carrying out of this kind of fishing.

Secondly, the community system also penalises the commercialisation of a determined kind of illegal fishing fully spread in our days : the juveniles fishing. Thus, we can deduce a double sanction from the lecture of the market regulation, the 850/98 regulation regarding the technical measures on juveniles protection and the 1447/99 regulation that establishes a list of types of behaviour which seriously infringe the rules of the CFP, regarding the commercialisation of fishery products that do not have the minimum size required by the EC. Thus, article 19 of the 850/98 says that the catches from community waters that do not have the required size could not be stored, sold, exposed or put for sale. But, if it is the case that this prevision is not completely deterrent, appendix F of the 1447/99 regulation includes in the list of behaviours infringing the CPF normative the stocking, processing, placing for sale and transporting fishery products not meeting the marketing standards in force and, in particular, those concerning minimum sizes.

Finally, we must stress that the market regulation echoes the necessity of improving the transparency and knowledge of the market and the products on the part of the consumers. Thus, it introduced a new article, article 4, regarding the consumer's information that says that the fishery products can not be put for retail sale to the final consumer unless they have an appropriate labelling with the trade description of the species, production method and area of origin. Conceived like this, this article meets two main goals: on one hand, it foresees the fraud risks, which are being more important due to the diversity of the offer in the market and, on the other hand, simplifies the compliance controls related to the area and to the technical measures. As a matter of fact, the labelling of the fishery products with origin (the area) of the catching grants the consumer an important information and can also be useful to track the fishery products and to isolate those suspected to be illegal or to be caught by means of a method against national and international efforts on conservation of the fishery resources.

B. The *Control* Regulation As An Efficient Method To Guarantee Responsible Trade

The *control* regulation is not only concerned about the extraction activities, but it contains a series of provisions at the aim of guarantee the implementation of the trade in the most appropriate way. This is like that because the real application field of the regulation includes not only the fishing activities but also "all associated" activities carried out in the territory and within the maritime waters subject to the jurisdiction or sovereignty of the MS. This way, the Member States control includes the fishery products landing, sale, transport and storage activities. Thus, the control over the community fishery products is exercised in three different moments of the commercialisation: landing or transhipment, sale and transport

Firstly, the 2847/93 regulation prepare a landing control system as a complementary way to the information in the logbook, reinforcing this way the link between catches-commercialisation. As a matter of fact, the recorded catch in the logbook is not a complete and accurate record due to the fact that it seems unrealistic for fishermen to weigh each fish and record with exactitude its weight in the logbook. This fact leads to permit a tolerance of 20% allowed between recorded catch and the quantities of fish retained on board after the fishing operation. Thus, in order to guarantee an exact control of the catches, article 8 in the regulation says that after each crossing and before the 48 hours following the landing, the shipmaster should complete and submit a landing declaration to the MS in which the landing is taking place. This declaration is aimed at avoiding that the 20% tolerance margin non-recorded in the logbook will not be exploited by certain sectors of the Community fleet for fraudulent purposes. Obviously the main problem concerning this landing declaration is that the 20% of the catch to remain undeclared in the landing declaration and to be sold in the so-called "grey market". This is generally an enforcement problem if there is no physical inspection when the vessel arrives in port and the catch is landed before the landing declaration is completed. Nevertheless, some MS, as the Netherlands, has presented national measures to counter this practice as to ensure that the allowed difference between the recorded catch and the landed catch does not disappear into the "grey market".

Anyway, in order to evade the control of the landing, it is possible that the fishermen decide to tranship their catches to some other vessel in the sea. This was a very common situation in the 90´s, when the community vessels transhipped their catches to vessels that bore the flag of Eastern European countries or the former U.S.S.R., who shipped their cargo predominantly to destinations in Africa or Eastern Europe. In order to avoid

this situations, who lead to an unregulated fishing, *control* regulation contains an article which specifies the requirements on transhipment of fish from one vessel to another: communication to the flag State the species and quantities transhipped, the date of transhipment, geographical area of origin of catches, etc. So, the aim of the control regulation relating to transhipments is to ensure that catches taken by Community vessels are not privately loaded on reefers or klondykers[1].

A second method to face illegal fishing by means of trade control can be found in a more advanced phase of the sequence: The sale moment. Article 9 requires, in order to bring all parties within the control regime in the EU, auctions centres or marketing authorities to submit on first sale of fishery products, a sales note to the competent authorities in the MS. In the event of fish not being marketed in the manner envisaged in article 9.1, the article 9.2 provides that the onus is on the buyer of fishery products to submit a sales note or a take-over declaration. Information to be provided on the sales note is specified in the art. 9.3 includes, among others, the name of both the seller and the buyer, the relevant name of each species and its geographical area of origin and, when appropriate, the relevant minimum size. Thanks to these provisions the origin of the fish to be sold may be controlled, thus preventing the sale of the products of doubtful origin. The sales note demonstrates its effectiveness as a way to fight against illegal fishing, although it has some problems derived from the non-existence of a standard format yet, something that could solve the practical problems taking place in the EC specially because the sales notes can, theoretically, be provided in any of the Community's 11 official languages.

A third important element in order to encourage responsible trade and fight against illegal fishing is the transport document, regulated in article 13, introduced to overcome some of the problems created by the movement of fish, which is facilitated by the advent of the single market. Article 13 requires all fishery products landed in, or imported into, the Community for which neither sales note nor a take-over declaration has been submitted and which are transported to a place other than that of landing or import, shall be accompanied by a document drawn up by the transporters until the first sale has taken place. The details to be provided on transport documents are, among others, the quantities of fish for each species transported, the names of the consignee and the place and date of loading, the relevant name for each species, its geographical area of origin and, where appropriate, the relevant minimum size. That way, the proper functioning of the rules governing the transport of fishery products "should ensure that the national enforcement authorities are in a position to intervene in order to prevent the carriage and eventual sale of fish which have not been comprehensively registered an the point of landing or importation or whose precise origin in unclear"[2]. The control of transport also offers several possibilities for monitoring fraudulent practices such as illegal fish imports to the Community, and also provides a realistic deterrent to the marketing and sale of undersize fish.

In short, the CFP includes a series of provisions, which prevent or, at least, hinder the marketing of EU fishery products that do not fulfil the requirements of legal and responsible fishing. These provisions are aimed at standing up to illegal fishing by means of a market control. Anyway, the fact is that, nowadays, the EU market is provided with a majority of products coming from third countries. Therefore, it is necessary to look into the measures the EC has available so as to achieve that the aim of responsible marketing also includes imported products within the EC.

III. RESPONSIBLE TRADE OF FISHERY PRODUCTS COMING FROM THIRD COUNTRIES

The EC can adopt several measures to control the entry and marketing of fishery products coming from vessels or third States carrying out illegal fishing. As we will see, the measures preferably used by the EC to tackle this problem are basically three: trade measures applied to landings (A), trade measures that restrict imports (B), and the use of duties as an instrument to fight against illegal fishing (C).

Notwithstanding, before tackling these subjects, we ought to define two matters in advance. The first one is related to the kind of illegal fishing these measures seek to stand up to, that is, the fishing carried out by vessels with flag of convenience. The second one is concerned with the necessary conditions that should exist so that an international entity can use trade measures against other entities. We are aware of the fact that the use of trade

[1] Moreover, it must be taken into account that the landing declaration and the data about tranships must be also submitted in the case of the community vessels fishing in a third State waters or in high seas, when they land in communtary or third States ports and when they tranship their catches to a third State fishing vessel (art. 17)

[2] Long, R.J., Curran, P.A.: *Enforcing the Common Fisheries Policy*, Fishing News Books, Great Britain, 133, 2000.

measures as a means to put the aims of resources management into practice is a possibility taken into account in different international texts, such as the Code of Conduct for Responsible Fisheries, the Straddling and Highly Migratory Fish Stocks Agreement, as well as the IPOA-IUU (articles 65-76). However, it is necessary to fulfil some previous requirements so that these measures can be used. Firstly, trade measures can be only used under exceptional circumstances, as a last resort, after a first unsuccessful co-operation attempt among States in order to solve the problem. Secondly, trade measures, if they are to be applied, ought to have preferably a multilateral nature and should be decided within a Regional Fisheries Management Organisation (RFO), avoiding unilateral trade measures. And, finally, such trade measures must be adopted and applied in accordance with International Law, including the prescribed principles, rights and obligations in the World Trade Organisation (WTO) agreements, and in an equitable, transparent and non-discriminating way.

A. The Bannning Of Landing Import Products When They Do Not Meet Responsible Fishing Criteria

As we have pointed out in section II of this paper, the c*ontrol* regulation includes a series of provisions aimed at the entry control of EC fishery products in the EC market, that is, those products caught within EC waters or by EC vessels within the waters of third countries or in high seas. Moreover, the *control* regulation is concerned with the entry control in the EC market of fishery products caught by vessels of a third countries in non-EC waters and, therefore, enables the MS port to adopt a sanctioning trade measure against third countries vessels that fail to observe the conservation and management measures: the landing prohibition.

The concern for sanctioning at port the vessels that fish illegally and, therefore, the need to grant certain responsibilities to the port State, has already existed at an international level since the 80´s, when the introduction of port State control regarding high seas fisheries, was firstly discussed. Thus, article 23 of the Straddling and Highly Migratory Fish Stocks Agreement provides the right and the duty of a port state to take non-discriminatory measures in accordance with international Law, in order to promote the effectiveness of sub-regional, regional and global conservation and management measures. And if it has been established through inspection that the catch has been taken in a manner that undermines the effectiveness of internationally agreed conservation and management measures on the high seas, article 23.3 allows the port State to prohibit landings and transhipments. The importance of this provision let itself be soon felt in the RFO, and, for instance, in September 1997 NAFO adopted a "Scheme to Promote Compliance by Non-contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO" –adopted almost identically by CCAMLR a few months ago– which stipulates that if a non-party vessel is found to have species on board to which NAFO conservation applies, all parties to NAFO will prohibit landings in their port and transhipments in their waters[3].

The EC has echoed this responsibility of port State as an instrument to fight against illegal fishing and, therefore, it has been introduced in the EC regulation, to be precise in the article 28 octies of *control* regulation. In accordance with this article, the MS competent authorities will only allow the landing of catches carried out in high seas by a vessel of a third country when the species kept aboard were caught out of the control area of any competent RFO the EC is member of, or when the species were caught in accordance with the conservation and management measures adopted by an competent RFO the EC is member of.

[3] Anyway, some measures of this kind have been adopted, not only in the multilateral field, but also in the unilateral one. This has been the case of Chile, which adopted a fishing law in 1991 which prohibited the landing and transit of several fishing species, specially the swordfish, at Chilean ports. This measure damaged some Spanish vessels in particular, which fished near the Chilean coast, while out of the Chilean territorial waters, and landed their catch in Chilean ports in order that other EC vessels could transport the catch towards their destinations. In view of this situation, the Spanish National Association of Owners of Deep-Sea Longlines lodged a complaint under the Trade Barriers Regulation (TBR) against this practice, considering this trade measure a violation of Chile's obligation under article V of the GATT. The examination carried out by the TBR Committee assessed that the Chilean prohibition on landing and transit was contrary to article V of the GATT and could not be justified under the general exceptions under article XX in its chapeau and in its paragraphs (b) and (g). The decision adopted by this Committee caused that the EC applied for the establishment of a special group within the WTO against Chile, with the aim of guaranteeing the access to Chilean ports on an equal basis. Chile denied the discussion on any access to its ports on the part of the EC vessels and raised the conflict to the International Tribunal of the Law of the Seas (ITLOS), so that the subject was studied only within the UNCLOS field. Finally, on January 2001 EU and Chile reached an amicable settlement to end WTO/ITLOS swordfish dispute.

However, the expression of this article shows two serious problems that cast doubt on its efficiency as a means to control illegal fishing. On one hand, as it has been pointed out by the European Parliament (EP), the first point of the article 28 octies is absurd since it establishes, in essence, that there is no demand for the fact that the fishing obeys any conservation measures in the cases in which the fishing is carried out in an RFO area the EC is not member of. That is, it seems that, on these assumptions, the EC does not care if an illegal or a rightful vessel caught the fishing legally or illegally. Therefore, in logic, this section must be amended so that the fish can be only landed if the fact that it has been caught in accordance with the rules of all the RFOs and not only those the EC belongs to, can be proved. This is aimed at the fact that the EC can be taken seriously in its attempt of controlling the illegal fishing. On the other hand, this article contains a gap insofar as there is no disposition about the landing of fish caught in a high seas area, but out of an RFO area. For these cases, the article should include a clause in which it should be stated that the fish coming from these areas could only be landed in EC ports if it meets the established rules in the appropriate international instruments relative to the conservation and management of high seas resources.

B. Prohibition Of Importing Fishery Products As A Means To Fight Against Illegal Fishing

In addition to the prohibition of landing catches when these have been caught failing to observe the international rules of conservation, the EC can adopt other measures to stand up to illegal fishing. We are referring to the trade measures that hinder the import of fishery products coming from States, the vessels of which exercise illegal fishing.

The use of embargo as a means to shelter conservation of resources is a method that shows great difficulties in its application since it goes against the GATT. In fact, the article XI of GATT prohibits WTO members from imposing quotas, embargoes or other border measures (except tariffs) designed to block or impede imports to or exports from other WTO members. However, the very same GATT text allows exceptions to free trade if necessary to protect human, animal or plant life or health, or relating to the conservation of exhaustible natural resources if such measures do not constitute a means of arbitrary or unjustifiable discrimination (article XX b and g)[4]. Well then, with a view to these exceptions, several WTO States have hindered the import of fishery products coming from other States, justifying such an embargo in the need of conservation of fishing resources. Many embargoes have given rise, obviously, to a WTO panel report (for instance, the panels in *Tuna/Dolphin* I and II, *Shrimp/Turtle*, or *Canada-US Lobster*), which allowed the WTO to delimit the criteria needed so that an embargo can be justified owing to conservation reasons and, therefore, it can be compatible with the GATT. In particular, these criteria are two: on one hand, the WTO demands that all means of international co-operation have been used before adopting a restrictive unilateral measure related to trade and, on the other hand, the WTO asks for the existence of a clear link between the trade measure and the resource conservation.

The doctrine set up by the WTO panels as regards the trade measures and the resource conservation has been regarded as too inclined to free trade to the detriment of the conservation requirements. However, this consideration cannot lead us to a hasty conclusion as for the role the exception of the article XX (g) of the GATT can play as a means to fight against illegal fishing. In fact, nearly all of the settled panels about this exception have been aimed at the test of an environmental measure adopted to protect the conservation of resources. And, even though it is true that sometimes protecting the environment may justify a commercial measure, it is not less true that the environmental standards are especially attractive to mask protectionist practices. On the contrary, the direct link between the embargo of illegally captured fishery products and the protection of the resources is much clearer.

Embargoes are being used as an instrument to fight illegal fishing on a multilateral basis in certain RFOs. For this reason, some Organizations have banned the imports of certain species coming from States considered as a flag of convenience, to any of their Parties. In this concern, the actuation of the ICCAT may be underlined, as it has banned the importation of species such as swordfish or red tuna coming from third States that are considered to be illegal fishers by this Organization, to all of the contracting parties of the ICCAT. The EC, as a member of the ICCAT, has transposed these recommendations into European Community Law and has banned the imports to its territory of certain species coming from States as Belize, Honduras, Equatorial Guinea or Panama.

[4] Moreover, the preamble of the Marrakech agreement recognizes that the States sholud conduct their retations in the field of trade and economic endeavour "while allowing for the optimal use of the world's resources in accordance with the objetive of sustainable development, seeking both to protect and preserve the environment and to enhace the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development".

These commercial measures have been proved to be quite effective, at least in the short term, and some States affected by the embargoes have started control programs, setting of legal procedures against some vessels or terminating fishing licences and, some of them, have even joined the ICCAT. However, these embargoes to imports have raised two important legal problems, one of them being general and the other being specific of the EC.

In first place, the question of whether a multilateral agreement permitting embargoes would be consistent with international trade law. In any ways, the solution to this assumption of conflicting treaties does not appear to be very problematic as, being the aim of the measure the fight against illegal fishing, there would be a direct link between the embargo and the management of an exhaustive resource, such that the embargo might fit the wording of the article XX (g)[5]

However, the EC found also a second problem to include the commercial measures established by the ICCAT in its ordinance. The problem arose because some of the States against which the import ban was ordered were part of the Lomé Agreement (now Cotonou) and it does not include commercial measures. To face this situation, the Development Directorate-General of the EC considered that the adoption of any commercial measures whatsoever affecting a State that is part of the Lomé Agreement was against the Agreement itself. Nevertheless, the point of the DG did not consider two important matters for solving this conflict. In first place, despite Lomé Convention does not include the possibility to adopt commercial measures, it does not exclude them expressly, either. And, in the second place, it shall not be forgotten that one of the basic principles of the Lomé Agreement is good faith and that if it is broken off, it would be possible to adopt measures that, initially, do not follow the spirit of the Convention. Due to these reasons, the legal service of the Commission deemed that commercial measures under determined assumptions were not incompatible with the Lomé Agreement. Furthermore, these commercial barriers were also approved by the Committee 113 (now Committee 133), that set the doctrine for the compatibility of these measures and the GATT, in which three requirements where established: they must be exhaustible resources, a Multilateral Environmental Agreement (MAE) must exist and the other party must have been invited to cooperated and must have declined.

C. The Use Of The Scheme Of Generalised Tariff Preferences As A Weapon To Tackle Illegal Fishing

As well as the above-mentioned commercial measures, the EC has another effective instrument to fight illegal fishing through the regulation of trade: custom duties. In accordance to the offer submitted to the UN Conference on Trade and Development (UNCTAD), the EC has opened, since 1971, generalized tariff preferences for some of the industrial and agricultural products coming from developing countries. This way, the EC sets up a tariff preference scheme for developing countries, whose aim is promoting the development of those States and help their integration in the international economy and the multilateral trade system.

In any ways, and as far as we are concerned, we must underline that the preferential custom tariff planned for the imports of fisheries products varies according to various parameters, among which the criteria related to conservation of resources are not included. Under this state of things, imports of species from countries practicing illegal fishing may be, and in fact are, favoured by a 0% tariff to enter the EC, while others coming from other States that respect the established conservation principles are charged up to an 18% tariff.[6] This way, the current conception of the tariff preference scheme may even reward those States favouring illegal fishing.

Nevertheless, the very own system of tariff preferences offers a precious mechanism to become a tool to efficiently fight illegal fishing. The Article 26 of the regulation 2501/2001, relative to the application of the generalised tariff preference scheme for the period 2002/2004, allows the temporary withdrawal of tariff preferences in manifest cases of detriment of the goals of International Conventions, such as NAFO, NEAFC,

[5] For further information on this, please refer to McDorman, T.L.: "Fisheries conservation and management ant international trade Law" in HEY, E. (ed): *Developments in International Fisheries Law*, Kluwer Law International, Netherlands, 520-523, 1999. Also, we must take into account that the ICCAT is respectful with the cooperation obligation imposed by the WTO before adopting a commercial measure.

[6] For example, States like Equatorial Guinea or Belize, which are classified as convenience-flag states by ICCAT are favoured by a 0% custom duty in their imports of tuna fish to the EC (unless for those varieties that are banned in the EC in accordance to a ICCAT recommendation). In contrast, States that respect the conservation measures, like South Africa, are charged an 18% custom duty on their imports of tuna to the EU.

ICCAT or NASCO, related to the conservancy and management of fishery resources. That is, the Community Tariff Treatment is fully respectful with the conservation measures internationally previewed by the RFOs and enables the temporary withdrawal of the benefits of the tariff preference scheme to those States that fail to control the illegal fishing of their vessels.

The use of this tool as a deterrent of illegal fishing seems to be quite efficient, at least for two reasons. On one hand, it enables the EC to penalise the States allowing illegal fishing by depriving them of a preference tariff and to charge them with the higher tariff allowed. On the other hand, unlike other measures like embargoes, it has no incompatibility problems with the GATT. However, the truth is that this measure is not being used by the EC as frequently as it should

IV. CONCLUSIONS

Undoubtedly, one of the means that may be used to prevent, deter, and eliminate illegal fishing is controlling the transactions and imports of the fisheries products. In fact, an effective control of the trade of fisheries products deters the illegal captures, to the extent that it closes the marketing channels

Even before the IPOA-IUU was approved, the EC included in its legal system some commercial measures to face illegal fishing coming from both community vessels and those of third States considered as flags of convenience. The current existing measures are a step, certainly an essential one, in the struggle against illegal fishing through the regulation of the market. But they are nothing but a first step that must be completed with new provisions that must be adopted as soon as possible by the EC. The study we have carried out shows gaps and deficiencies in the community regulations that prevent the regulation of the market from becoming a really effective mechanism for preventing, deterring and eliminating illegal, unreported and unregulated fishing, at the current moment.

In first place, and in relation to the measures adopted by the CFP to regulate the market of community products, we certainly must point out that, even though the community legal system enables a general warrantee of a responsible trade of such products, there are still some lacunas that must be filled. Among them, we may name at least two. On one hand, the community legal system should include a provision in its regulation to clearly and forcefully state that trading with fish or products obtained from illegal, unreported and unregulated fishing is an infringement of the EC Law. This provision might be included in the *control* regulation that may even expressly refer to the ordinances of the Member States to establish the sanction. In any case, in order to simplify the task of the involved parties, the EC should publish the lists of the vessels that have been found to practice illegal fishing and, when necessary, the economic agents directly associated to their activities, as approved and established by the RFOs. Furthermore, on the other hand, to eliminate any doubts about the intention of the EC to fight against illegal fishing, regardless the nationality of the offenders, the range of application of the *control* regulation should be extended to the nationals of the EU working in vessels whose flags are not of a MS of the EU (in fact, this is one of the new proposals submitted to the Commission in the occasion of the review of the CFP).

In second place, the commercial measures as to face the imports of fisheries products coming from States flying flags of convenience are not as efficient as they might be, either. On one hand, we have already pointed out the deficient *control* regulation that inhibits the adequate control the landings of species captured in waters of a RFO of which the EU is not a member, or in high seas waters, not ruled by the regulations of a RFO. On the other hand, we have also discarded the scant use that the EU makes of an effective tool to prevent and fight illegal fishing as the generalised preferences scheme. But we also believe that, in order to promote this struggle through the regulation of the market, the EC should adopt a commercial measure of a positive nature included in the IPOA-IUU: a community fishing certification or label. As we have previously underlined, the *market* regulation demands the identification of the origin of the fisheries products for their marketing. The interest of this method as a system to regulate illegal fishing is obvious; however, we believe that this is nothing but the first step to achieve a community label to certify the "legal" origin of the product, discriminating those coming from States classified as flags of convenience by the RFOs. Furthermore, the information included in this label may even go one step further and warrantee the origin, no only legal, but also more environmentally friendly, as in the "fish forever" label, certified by the Marine Stewardship Council. We know the difficulties that establishing this kind of label involve for a public body, as the efforts in this direction implemented by the FAO witness; but maybe all the possible efforts should be done through the Ecolabel Committee of the EU, so that a community label to certify the legal and responsible origin of the fisheries products sold in the EC may be a reality as soon as possible.