

Position paper

Cameroon IUU yellow card: The EU should also sanction European companies hiding behind its flag

Brussels, 21 March 2021

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In February, the European Commission issued a ‘yellow card’ to Cameroun due to a series of shortcomings of this country in its actions against IUU fishing. Several ex-USSR vessels that recently reflagged to Cameroun are owned or managed by European companies. Many of these vessels have a history of illegal fishing in West Africa. The author suggests the EU should do more to keep beneficial owners accountable.

1. Overview

Mid-February, the European Commission issued a so-called ‘yellow card’¹ to Cameroon, warning it that it should step up its actions against IUU fishing. The Commission identified a series of shortcomings, including the lack of a robust registration policy for fishing vessels entitled to operate under its flag, and the need to efficiently control the fishing activities carried out by these vessels:

¹ EUROPEAN COMMISSION, “Fighting against illegal, unreported and unregulated fishing: Commission notifies Cameroon with a yellow card”, 17 February 2021, Press release. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_621

“The registration procedure does not seem to include the verification of the history of the vessels, as IUU listed fishing vessels have been registered in Cameroon and entitled to fly its flag. Cameroon has also registered many fishing vessels under its flag in the past months which raises serious concerns on the ability of Cameroon to efficiently control and monitor the activities of its fleet, particularly its segment operating outside waters of Cameroon and those that have already engaged in illegal fishing activities.”

Amongst these vessels recently registered, are more than a dozen ex-USSR fishing vessels (see annex table), now flagged to Cameroon, that are owned or managed by companies based in EU member states: Belgium, Malta, Latvia, and Cyprus. Several of these vessels have a history of illegal fishing in West Africa.

All these vessels target small pelagics (horse mackerel, mackerel, sardinella, sardine) along the whole Atlantic coast of Africa, transshipping in countries like Mauritania, Guinea Bissau, Namibia or South Africa. These fish are also targeted by artisanal fishers, and processed by women fish processors, in countries like Senegal or The Gambia. The unchecked activities of these vessels add to the excessive pressure put on these resources, threatening the future of the communities that depend on them for their livelihoods and food.

2. Fishing small pelagics in West Africa

THE ‘KING FAMILY’

A telling example is the factory trawler VEGA, previously called GOTLAND, that was fined in 2016 for fishing illegally into Senegalese waters whilst being authorised only to fish in Mauritanian waters.² It was arrested in Spain on the request of Senegalese authorities, and fined 1,754,000 US\$.

The VEGA changed names several times, as is common practice for vessels involved in illegal operations. It was called the GOTLAND, and before that, the KING BASS. The ‘KING family’ is a group of former Soviet factory trawlers (KING FISHER, KING DORY, KING KLIP, KING DORA, KING RAY, KING BASS) that has been involved in various illegal activities over the last decade. Between 2010 and 2012, they used illegal fishing licences to catch small pelagics in Senegal, a case which was particularly concerning for West African artisanal fishing communities.³

To date, the ‘KING family’ all reflagged to Cameroon. Each one of these vessels is managed by a different company based in Cyprus, but all of these companies are tied to a Belgian-based company, INOK, which also has offices in the Russian Federation.⁴ Some think that the fleet may be owned by Magnus Roth,⁵ a Swedish businessman

² CPCO, « Pêche illégale : Le Sénégal réclame plus d'un milliard au Gotland », 16 August 2016. Available at : <https://fcwc-fish.org/autres-actualites/peche-illegale-le-senegal-reclame-plus-dun-milliard-au-gotland?lang=fr>

³ GREENPEACE, « Main basse sur la sardinnelle. Le scandale des autorisations de pêche au Sénégal : un drame en cinq actes. Enquête sur le pillage organisé des ressources pélagiques du Sénégal entre mars 2010 et avril 2012 », October 2012. Available at : https://www.greenpeace.ch/static/planet4-switzerland-stateless/2019/05/994a93a1-994a93a1-2012_oceans_rapport_mainsardinelle.pdf

⁴ More information about the company on their website: <http://inok-tm.ru/en/company/>

⁵ RESEARCH4COMMITTEES, “Lithuania – Seafood industry integration in all EU Member States with a coastline”, 31 December 2019. Available at: <https://research4committees.blog/2019/12/31/lithuania/>

described as the ‘cod father’⁶ in the Scandinavian press. Magnus Roth has long been involved in international fishing operations. His Hong Kong-based holding company, Three Towns Capital Ltd., also owns the Spanish company Lispa Holding SA, which in turn, since January 2014 bought the Lithuanian fishing company Baltlanta. According to the Swedish researcher Anders Svensson, the change of their ‘KING’ names to Swedish-sounding names seemed to reflect the change of ownership.⁷

BALTREIDS AND OCEAN WHALE COMPANY

The former ‘KING family’ are not the only factory trawlers linked to EU companies that have recently reflagged to Cameroon. Three other trawlers owned by the Latvian company BALTREIDS, also formerly from the Soviet Union, and fishing small pelagics in West African waters such as Mauritania, joined them. At least one of these vessels, the MARSHAL VASILEVSKIY, then under an EU flag, used an illegal fishing licence to fish in Senegal between 2010 and 2012. At that time, it was also operating under the EU-Mauritania fisheries agreement protocol.⁸

Nowadays, BALTREIDS still owns a couple of vessels fishing under the EU-Mauritania fishing agreement protocol, the KAPITAN MORGUN and the FISHING SUCCESS. In 2020, it was reported that these vessels allegedly did not respect the fishing zones⁹ established under the agreement, coming to fish very close to the coast, which is illegal. Moreover, according to a European scientist who has been following their activities in West Africa for years, these Latvian vessels systematically refuse to take scientific observers on board, which could have made it easier for these vessels to make illegal incursions into the coastal zone.

A third European-based company, the OCEAN WHALE COMPANY (OWC), registered in Malta, is operating four 40-years-old ex-USSR pelagic trawlers, also reflagged to Cameroon. These vessels catch small pelagics in the waters of Mauritania, Guinea-Bissau, Angola, Namibia, and generally tranship their catches in Bissau. One of the vessels, the PILOT WHALE, previously known as MIKHAIL VERBITSKIY, was witnessed some years ago by Greenpeace making illegal incursions in Senegalese waters¹⁰ whilst having only a licence to fish in Guinea Bissau.

In summary, the EU is notifying Cameroun for not doing enough to combat IUU fishing. At the same time, there are European-registered companies owning or managing a fleet of ex- Soviet factory trawlers flagged to Cameroon, many of them with a history of illegal fishing. All of these vessels still have ties to Russia, with many of their operations financed by Russian capital. **These EU based companies are, together with the Russian investors, the ones that ultimately profit from these vessels activities that put in jeopardy West African fishing communities’ livelihoods. Should the EU not also seek to target these European based companies?**

⁶ See the Facebook page “The Magnus Roth Investigation”. Available at: <https://www.facebook.com/The-Magnus-Roth-Investigation-101861824902562/>

⁷ SVENSSON, Anders, “Magnus Roth och Baltlanta”, Njord, 5 November 2014. Available at: <http://fiske.zaramis.se/2014/11/05/magnus-roth-och-baltlanta/>

⁸ GREENPEACE, *Ibid.*

⁹ “Les elements de La garde côte agissent avec brutalité avec les navires de la flotte nationale et ferment les yeux sur les violations des chalutiers étrangers”, Al Awiam Info, Agence d’Informations, 23 September 2020. Available at : <https://alwiam.info/fr/ar/8955>

¹⁰ « Pêche illicite : Saër Seck réclame la tête de Khouraiichi Thiam », Senepus.com, 22 January 2014. Available at : <https://www.senepus.com/article/sa%C3%ABr-seck-r%C3%A9clame-la-t%C3%AAt-de-khoura%C3%AFchi-thiam-0>

3. EU can play a key role to make beneficial owners accountable

As stated in the recent ‘Spotlight’ by TMT,¹¹ the fact that the ultimate beneficial owners of these operations hide behind shell companies “*presents a significant challenge for authorities attempting to manage, investigate, or prosecute [...] the true owners who are the actual financial beneficiaries of illegal activity. As a result, enforcement efforts are frequently focused on the vessel (the asset) rather than the actual culprits.*”

In the last decade, the EU has started to incorporate provisions into its laws, to make its nationals involved in fisheries operations more accountable, no matter their country of residence or to which country their vessels are flagged. The Common Fisheries Policy itself now covers activities by Union nationals of Member States. The articles 39 and 40 of the IUU regulation,¹² which entered into force in 2010, address the issue of nationals supporting or engaging in IUU fishing, including operators or beneficial owners. But it’s up to the Member States to take action, and most of them, including those involved in this case – Latvia, Malta, Belgium, Cyprus, have never shown an appetite to act on this.

A noticeable exception is Spain, which, in 2016, thanks to a joint operation between Spanish police and Interpol, arrested and charged six people linked to the fishing company Vidal Armadores, for illegal fishing operations by their vessels under other flags. But in December 2016, the Spanish Supreme Court concluded that the courts of Spain did not have jurisdiction in this case, overturned the previous ruling by the High Court, with criminal charges dropped, although administrative charges remained. An expert commenting on this outcome¹³ highlighted that:

“This case reiterates the need to implement legislation which allows the beneficial owners of vessels carrying out IUU fishing activities in areas beyond national jurisdiction to be prosecuted in criminal proceedings: loopholes in legislation must be closed. The deterrent of purely administrative sanctions has proven to be insufficient, with perpetrators viewing them as operational costs.”

But the ability to target the ultimate beneficial owners depends first on knowing who they are. The lack of information on beneficial owners is an important obstacle for making them accountable. The publication of this information is also important as

¹¹ COPELAND, Douglas et al., “Spotlight on: The Exploitation of Company Structures by Illegal Fishing Operators”, Trygg Mat Tracking, 10 December 2020. Available at: <https://www.tm-tracking.org/post/illegal-fishing-operators-exploit-company-structures-to-cover-up-illegal-operations>

¹² EUROPEAN UNION, “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”, 29 September 2008. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1408984470270&uri=CELEX:02008R1005-20110309>

¹³ FRANKOM, Sally, “Lack of Jurisdiction in Criminal Proceedings Regarding IUU Fishing and Related Crimes”, IUU Watch website, 27 February 2016. Available at: <http://www.iuuwatch.eu/2017/02/lack-jurisdiction-criminal-proceedings-regarding-iuu-fishing-related-crimes/>

issues linked to these beneficial owners' activities, including illegal fishing, corruption, money laundering, are of public interest.

The EU has taken a first step to lift the secrecy about beneficial owners, with the 2017 EU Regulation on the sustainable management of external fishing fleets¹⁴ (SMEFF Regulation). This legislation provides for the European Commission to maintain an electronic fishing authorisation database, including information on the beneficial owners of operations by vessels flagged in an EU Member state. To date, this information is kept confidential. Facilitating public access to the beneficial ownership information contained in this database (name, city, country of residence of the owner and of the five main beneficial owners, as well as the nature and extent of the beneficial interest held) would be a good first step for creating transparency about beneficial owners.

But this would not be enough to create transparency about operations of vessels owned or managed by EU-based companies and flagged in a third country like Cameroon. This calls for further action at international level.

With the steps the EU has already taken, it should lead such international debates, and make concrete proposals to progress on the issue, starting with improving beneficial ownership reporting requirements. On this topic, in its publication Spotlight, TMT suggests¹⁵ for example to “*require vessel owners to report ultimate beneficial ownership when registering with a flag State or requesting authorization to fish, and make this information public and transparent.*” It further highlights:

“There is a clear need to address the responsibilities of these ‘Beneficial Ownership States’, particularly as research indicates that the number of beneficial owner ‘origin’ countries is very limited. If these States took action to limit the ability of their nationals to operate opaque fishing operations and benefit from illegal fishing activities, the ability for high-risk operators to hide their identities and perpetuate their crimes would be significantly reduced.”

4. Conclusion

The yellow card to Cameroon is aiming to address much more than the risks posed by these pelagic trawlers' activities, in particular the increasing presence of unruly Chinese vessels in Cameroon waters. This yellow card is to be welcomed mainly because it means a dialogue will be opened up between the EU and Cameroon, to encourage and support Cameroon to take appropriate action to combat IUU fishing in its waters and by the fleets using the Cameroon flag. However, in case Cameroon was to end with a red card, and provided it would affect these pelagic trawlers, the most likely scenario is that they would reflag to yet another ill-equipped country, that will be unable or unwilling to control them.

¹⁴ EUROPEAN UNION, “Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008”, 12 December 2017. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1516098664655&uri=CELEX%3A32017R2403>

¹⁵ COPELAND, D et al., *ibid.*

Cameroun Yellow Card: sanctioning EU companies using its flag

Position paper – 11 March 2021

Given the threat that these trawlers represent for the sustainable exploitation of small pelagics in West Africa, and for the livelihoods of West African coastal communities, **it is high time that the EU starts thinking about how to lead the way so that Beneficial ownership states, like many EU member states, can more efficiently target those who make the profits from these questionable fishing operations.**

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