

**COMMISSION IMPLEMENTING DECISION (EU) 2023/97****of 5 January 2023****identifying Cameroon as a non-cooperating third country in fighting illegal, unreported and unregulated fishing**

THE EUROPEAN COMMISSION,

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> (the IUU Regulation), and in particular Article 31 thereof,

Whereas:

**1. INTRODUCTION**

- (1) 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, the removal from that list, the publicity of that list and any emergency measures.
- (3) Pursuant to Article 31 of the IUU Regulation, the Commission is to identify third countries that it considers as non-cooperating countries in fighting IUU fishing. A third country may be identified as a non-cooperating third country if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.
- (4) The identification of non-cooperating third countries under Article 31 of the IUU Regulation is to be based on the review of all information as set out under Article 31(2) of that Regulation. It shall be based on the review of all information obtained pursuant to the IUU Regulation or, as appropriate, any other relevant information, such as the catch data, trade information obtained from national statistics and other reliable sources, vessel registers and databases, catch documents or statistical document programmes and IUU vessel lists adopted by regional fisheries management organisations (RFMOs), as well as any other information obtained in the ports and on the fishing grounds.
- (5) In accordance with Article 33 of the IUU Regulation, the Council is to decide on a list of non-cooperating countries. The measures set out in Article 38 of the IUU Regulation apply to those countries.
- (6) According to Article 12(2) of the IUU Regulation, fishery products are only to be imported into the Union when accompanied by a catch certificate in conformity with that Regulation.

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

- (7) Pursuant to Article 20(1) of the IUU Regulation, the acceptance of validated catch certificates from third country flag States is subject to a notification from the flag State concerned to the Commission certifying the national arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels and the empowerment of its public authorities to attest the veracity of the information contained in the catch certificates.
- (8) In accordance with Article 20(4) of the IUU Regulation, the Commission is to cooperate administratively with third countries in areas pertaining to the implementation of the provisions of that Regulation relating to catch certification.
- (9) The Republic of Cameroon ('hereinafter Cameroon') submitted to the Commission its notification as a flag State pursuant to Article 20 of the IUU Regulation and it was accepted by the Commission on 15 July 2009.
- (10) Based on the information referred to in Article 31(2) of the IUU Regulation, the Commission considered that there were strong indications that Cameroon had failed to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter or eliminate IUU fishing.
- (11) In accordance with Article 32 of the IUU Regulation, the Commission therefore decided, by Decision of 17 February 2021 <sup>(?)</sup>, to notify Cameroon of the possibility of being identified as a non-cooperating third country pursuant to the IUU Regulation.
- (12) The Decision of 17 February 2021 included information concerning the essential facts and considerations underlying such possible identification.
- (13) The Decision 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.
- (14) The Commission invited Cameroon in particular to: (i) take all necessary measures to implement the actions contained in the action plan suggested by the Commission and (ii) assess the implementation of the actions contained in the action plan suggested by the Commission.
- (15) 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, allowing it to submit evidence refuting or completing the facts stated in the Decision of 17 February. Cameroon was assured of its right to ask for, or to provide, additional information.
- (16) By its Decision of 17 February 2021, the Commission opened a dialogue process with Cameroon.
- (17) The Commission continued to seek and verify all information it deemed necessary. The oral and written comments submitted by Cameroon following the Decision of 17 February 2021 were considered and taken into account. Cameroon was kept informed, either orally or in writing, of the Commission's considerations.
- (18) In light of the elements gathered, as shown in recitals (34) to (86), Cameroon has not sufficiently addressed the areas of concern and shortcomings described in the Decision of 17 February 2021 and failed to fully implement the measures suggested in the action plan accompanying the Decision.

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<sup>(?)</sup> 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 C 59 I, 19.2.2021, p. 1).

## 2. PROCEDURE WITH RESPECT TO CAMEROON

- (19) On 17 February 2021, the Commission notified Cameroon, pursuant to Article 32 of the IUU Regulation, that it considered the possibility of identifying Cameroon as a non-cooperating third country.
- (20) The Commission invited Cameroon to implement, in close cooperation with its services, an action plan to rectify the shortcomings identified in its Decision of 17 February 2021.
- (21) The main shortcomings identified by the Commission were related to several failures to implement international law obligations, linked in particular to the adoption of an adequate and updated legal framework, lack of clear and transparent registration and licensing procedures and lack of efficient and adequate monitoring of fishing vessels. The identified shortcomings relate, more generally, to the conditions for registration of fishing vessels and their control according to 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) <sup>(3)</sup> and FAO Voluntary Guidelines for Flag State Performance <sup>(4)</sup> was also identified. However, the lack of consistency with non-binding recommendations and resolutions was considered only as supporting evidence and not as a basis for the identification.
- (22) Through its letters dated 17 March 2021, 22 March 2021, 16 April 2021 and 21 March 2022, Cameroon informed the Commission of its willingness to address the shortcomings identified in the Decision of 17 February 2021, to cooperate with the Commission and accepted the action plan.
- (23) On 9 April 2021, the Commission sent a letter to the Ministry of Livestock, Fisheries and Animal Industries indicating that the Decision of 17 February 2021 was adopted and in force, and that the authorities of Cameroon have a timeline of 6 months to respond on the progress achieved following the adoption of the Decision of 17 February 2021.
- (24) Through an email dated 25 April 2021, the authorities of Cameroon confirmed that fishing vessels flying the flag of Cameroon are not authorised to undertake fishing activities in third countries' waters. Article 119 of Law No 94/01 (*Loi n° 94/01 portant régime des forêts, de la faune et de la pêche*) only provides for the possibility to obtain a licence to fish in the high seas. The authorities of Cameroon further affirmed that currently no licences have been issued to fishing vessels flying the flag of Cameroon authorising them to operate outside waters under Cameroon's jurisdiction, including in high seas and waters under jurisdiction of other countries.
- (25) The Commission and the authorities of Cameroon held a conference call on 28 April 2021 to discuss the arrangements of their cooperation and the follow-up with regards to the implementation of the action plan. During that meeting, the authorities of Cameroon reiterated their willingness to address the identified shortcomings and cooperate with the Commission.
- (26) Following that videoconference, exchanges continued in writing. On 17 April, 19 April, 25 April, 27 April, 6 May, 27 May, 29 June and 26 October 2021, the authorities of Cameroon submitted by electronic means: (i) Law No 94/01 and the applicable fisheries regulations, (ii) a revised draft law on fisheries, to which the Commission provided comments, (iii) a document summarising the registration procedure and further details on this procedure, (iv) elements on the licensing procedure of fishing vessels in Cameroon, (v) two different lists of fishing vessels flying the flag of Cameroon, which were both incomplete, (vi) two different lists of fishing vessels licenced by the authorities of Cameroon, (vii) two lists of fishing vessels de-registered from the national registry, one of which was incomplete, (viii) and copies of registration and de-registration certificates of fishing vessels.

<sup>(3)</sup> International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Food and Agriculture Organization of the United Nations, 2001.

<sup>(4)</sup> Voluntary Guidelines for Flag State Performance, March 2014, retrieved from: <http://www.fao.org/3/a-i4577t.pdf>.

- (27) The authorities of Cameroon submitted a progress report on 15 September 2021 listing the actions carried out with regards to the implementation of the recommendations included in the action plan. However, the Commission requested a thorough and more detailed document, as this report was not sufficient to properly assess the progress.
- (28) Through a letter dated 11 October 2021, the Commission highlighted its concerns as regards the development of the dialogue and the lack of progress from Cameroon in addressing the recommendations included in the action plan following the Decision of 17 February 2021.
- (29) The authorities of Cameroon submitted an updated progress report on 21 October 2021, containing the measures being undertaken by the country to address the shortcomings identified in the Decision of 17 February 2021. Cameroon stated that it has started the revision of its legal framework, including that of the vessel registration procedure and its National Plan of Action against IUU fishing (NPOA-IUU). The authorities of Cameroon have also commenced *démarches* to ratify the Cape Town Agreement <sup>(7)</sup>, set up an inter-ministerial committee to audit the national registry and applicable legal framework, organised meetings between the Ministry of Livestock, Fisheries and Animal Industries and the Ministry for Transport, launched a process to deregister from its national registry fishing vessels suspected of having committed IUU fishing activities or having committed such activities in third countries' exclusive economic zones (EEZs). In addition, the authorities of Cameroon indicated that the vessel monitoring system (VMS) is not functioning anymore. Documents in support of the above-mentioned actions have been submitted to the Commission only in June 2022.
- (30) Between April 2021 and February 2022, the Commission continued to seek to contact the authorities of Cameroon, insisting on the necessity to hold a structured, meaningful and effective dialogue, recalling the urgency of providing documents in support of the written affirmations and explaining the possible implications in case of failure in addressing established shortcomings on multiple occasions. However, the authorities of Cameroon did not provide complete replies to the Commission as regards these communications.
- (31) In June 2022, the Commission sent a letter to the authorities of Cameroon underlining the importance of providing the requested information and clarification in order to ensure an effective cooperation on the subject. Following this letter, the authorities of Cameroon provided the same month additional information and documents requested in the previous correspondence of April 2021. Among others, the authorities provided the lists of vessels registered under its flag for each maritime district of Cameroon, an updated progress report, a copy of the NPOA-IUU, a document listing the sanctions taken in 2017 towards three vessels flying the flag of third countries, and a draft decree to create a monitoring centre. However, the Commission noted in an email sent in July 2022, that not all information requested had been provided and that some documents provided were incomplete and contained clear inconsistencies, such as the lists of vessels registered under the flag of Cameroon.

### 3. IDENTIFICATION OF CAMEROON AS A NON-COOPERATING THIRD COUNTRY

- (32) Pursuant to Article 31(3) of the IUU Regulation, the Commission has reviewed the compliance of Cameroon with its international obligations as flag, port, coastal or market State. For the purpose of this review, the Commission has taken into account the criteria laid down in Article 31(4) to (7) of the IUU Regulation.

#### 3.1. Measures taken in respect of the recurrence of IUU Vessels and trade flows of products stemming from IUU fishing (Article 31(4) of the IUU Regulation)

- (33) As highlighted in the Decision of 17 February 2021, the Commission established that Cameroon has failed to discharge its duties under international law as flag State to take action to prevent, deter and eliminate IUU fishing.

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<sup>(7)</sup> Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels.

- (34) In recitals (16) to (26) of the Decision of 17 February 2021, the Commission established that four fishing vessels carried the flag of Cameroon after their inclusion in the Indian Ocean Tuna Commission (IOTC) IUU vessel list: UTHAIWAN, SEA VIEW, SEA WIND and PROGRESO <sup>(6)</sup>. The authorities of Cameroon confirmed that these fishing vessels were flying the flag of Cameroon after their inclusion in the IOTC IUU vessel list.
- (35) On the basis of the information retrieved through open databases, the Commission established that Cameroon granted its nationality to the fishing vessel FREEDOM 7, which is an IUU listed vessel <sup>(7)</sup>, in April 2021, after the Decision of 17 February 2021. After several requests, the Commission finally received a reply from the authorities of Cameroon with regard to this fishing vessel in June 2022, by which the authorities of Cameroon denied having registered the vessel concerned. However, the Commission gathered information indicating that the vessel has been flying the flag of Cameroon and is still flying its flag.
- (36) This confirms that, following the Decision of 17 February 2021, the authorities of Cameroon have not reviewed the registration procedure to verify the fishing vessels' history of compliance as well as their ability to comply with any applicable regulations and international measures. The authorities of Cameroon also did not verify the IUU vessel lists adopted by RFMOs. This is not in line with points 36 and 42 of the IPOA-IUU, as highlighted in recital (19) of the Decision of 17 February 2021.
- (37) According to further information gathered by the Commission, Cameroon granted its nationality to three fishing vessels since the Decision of 17 February 2021 <sup>(8)</sup>.
- (38) According to the declarations made by the authorities of Cameroon during the exchanges with the Commission in April 2021, maritime districts <sup>(9)</sup> were not allowed to directly register fishing vessels anymore, and all requests for registration of fishing vessels are to be sent to the central administration beforehand. The authorities of Cameroon informed the Commission that the basis for such prohibition was laid down in a Circular issued by the Ministry of Transport, which was shared with the Commission in June 2022 <sup>(10)</sup>. The Commission however did not receive indications that the Ministry of Transport had been consulted in relation to the fishing vessels mentioned in recital (37) of this Decision.
- (39) In addition, since February 2021, Cameroon granted its nationality to at least six other fishing vessels (carrier and support vessels) <sup>(11)</sup>. The Commission cannot exclude that these vessels, all operating in waters outside Cameroon's jurisdiction, engage in fishing related activities without the necessary fisheries control being ensured as described under recitals (43) and (44) of the present Decision.

<sup>(6)</sup> UTHAIWAN (previous name WISDOM SEA REEFER, IMO No 7637527), SEA VIEW (previous name AL WESAM 2, IMO No 8692342) and SEA WIND (previous name AL WESAM 1, IMO No 8692354), PROGRESO (previous name AL WESAM 5).

<sup>(7)</sup> Vessel FREEDOM 7, IMO No 7302548, former names ZHI MING/GOLDEN LAKE/No 101 GLORIA, listed by the International Commission for the Conservation of Atlantic Tunas (ICCAT) in 2006, and then cross-listed by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the General Fisheries Commission for the Mediterranean (GFCM), IOTC, the North-East Atlantic Fisheries Commission (NEAFC), and the Southern Indian Ocean Fisheries Agreement (SIOFA).

<sup>(8)</sup> Vessel MARIGOLDS (IMO No 9447110) registered on 6 May 2021, vessel KAPITAN RUSAK (IMO No 9121106) registered on 27 September 2021 and vessel DUNBOY (IMO No 9147564), registered on 29 March 2022. According to information gathered by the Commission, vessel KAPITAN RUSAK operates in waters under Mauritania's jurisdiction. Vessel DUNBOY was located in Walvis Bay port, Namibia (from July 2022 to at least September 2022). According to information gathered by the Commission through open databases, vessel MARIGOLDS was apparently located in Punta Arenas port, Chile in March 2022. These fishing vessels have been registered by the maritime district of Kribi (*Circonscription maritime, fluviale et lacustre du Sud et de l'Est*).

<sup>(9)</sup> Including the maritime district of Kribi.

<sup>(10)</sup> Circular letter No 000007, signed by the Ministry of Transports on 11 September 2020. This Circular relate to vessels above 50 gross tonnage, which is the case for vessels MARIGOLDS, KAPITAN RUSAK and DUNBOY.

<sup>(11)</sup> Vessels GABU REEFER (IMO No 8300949), SALY REEFER (IMO No 7813925), SOLARTE (IMO No 8210285), SILVER ICE (IMO No 7819759), WAN YANG (IMO No 8627309), and WRAITH (IMO No 9101871). These vessels are described as carrier/reefers and support vessels.

- (40) The Commission therefore observes that Cameroon continued developing its long-distance fishing fleet after the Decision of 17 February 2021, while having stated that no fishing licences have been issued to fishing vessels operating outside its jurisdictional waters. The authorities of Cameroon further affirmed that fishing vessels flying its flag and operating in waters under third countries' jurisdiction do not breach Law No 94/01, as it does not contain any obligation for fishing vessels to have fishing licences from Cameroon to operate in waters under third countries' jurisdiction (only in high seas).
- (41) As underlined in recital (35) of the Decision of 17 February 2021, this is not in line with point 30 of the FAO Voluntary Guidelines for Flag State Performance that states that flag States implement a regime for authorising fishing and fishing related activities, as well as with paragraph 45 of the IPOA-IUU, according to which States are to ensure that fishing vessel flying its flag fishing in waters outside its sovereignty or jurisdiction hold a valid authorisation issued by the appropriate authorities of the flag State.
- (42) Besides, as already highlighted in recital (34) of the Decision of 17 February 2021, Cameroon, in its capacity of flag State, is to ensure control over the vessels flying its flag, in line with Article 94(2)(b) of 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides that the flag State assumes jurisdiction under its internal law over ships flying its flag.
- (43) Furthermore, points 31, 32 and 33 of the FAO Voluntary Guidelines for Flag State Performance state that flag States are to implement a control scheme over vessels flying their flag. The applicable Law No 94/01 does not contain any provisions as regards the control and surveillance of fishing vessels flying the flag of Cameroon, particularly outside waters under Cameroon's jurisdiction. In addition, during the exchanges in April 2021, the fisheries authorities of Cameroon indicated to the Commission that they do not know whether fishing vessels flying the flag of Cameroon operate in waters under third countries' jurisdiction, as they are not in possession of information on which fishing vessels fly the flag of Cameroon and as these vessels are not subject to fishing licence requirements under the above-mentioned Law.
- (44) The authorities of Cameroon further confirmed that fishing vessels flying their flag are not controlled via a VMS. Fishing vessels are only controlled through the automatic identification system (AIS) <sup>(12)</sup>, which is designed mainly for maritime safety purposes, by the maritime authorities which are not competent to enforce fisheries legislation. This lack of appropriate control is not in line with point 24 of the IPOA-IUU, which indicates that States should undertake comprehensive and effective monitoring, control and surveillance (MCS) of fishing including by implementing, where appropriate, a VMS, as well as with point 31 of FAO Voluntary Guidelines for Flag State Performance, which states that flag States implements a control regime over vessels flying its flag that includes as a minimum monitoring tools, such as VMS. The authorities of Cameroon continued granting its flag to fishing vessels, despite not having put in place the necessary means to control the vessels and their fishing and fishing related activities.
- (45) This lack of control is further reinforced by the fact that a fishing vessel, which was removed from Cameroon's national registry on 3 May 2019 according to information provided by the authorities of Cameroon, was denied entry into a third country's port after that date. The vessel in question was pretending to fly the flag of Cameroon.
- (46) In addition, two fishing vessels flying the flag of Cameroon have been caught undertaking IUU fishing activities in waters under the jurisdiction of a third country. Both vessels have been fined by the relevant coastal State.
- (47) Moreover, despite several requests from the Commission, the authorities of Cameroon have failed to provide an exhaustive list of all fishing vessels flying its flag. The lists provided to the Commission do not contain all the fishing vessels flying the flag of Cameroon, and are not up to date. For instance, the Commission observed that fishing vessels deregistered in 2020 were included in a list provided in 2021. In addition, two vessels included in lists provided in 2021 do not appear as flying the flag of Cameroon anymore, while they are not on the lists of

<sup>(12)</sup> In June 2022, the authorities of Cameroon provided a draft decree for the establishment of a monitoring centre of the vessels flying the flag of Cameroon, which mission will be, under the responsibility of the maritime authorities, to control the vessels flagged to Cameroon through AIS.

vessels having been de-registered <sup>(13)</sup> and a vessel appears as being registered in 2020 while it was not included in the lists provided in 2021 <sup>(14)</sup>. This confirms the elements provided in recital (21) of Decision of 17 February 2021, which highlighted that the list of fishing vessels is not properly maintained. This contravenes Article 94(2)(a) of UNCLOS and is not in line with paragraph 42 of the IPOA-IUU which provides that every State is to maintain a register of ships containing the names and particulars of ships flying its flag.

- (48) With regard to information laid down in recitals (34) to (47), the Commission considers that Cameroon has failed to uphold its responsibilities as flag State to exercise control over its fleet and prevent its fleet from engaging in IUU fishing activities in waters outside its jurisdiction. This is in breach of Article 94(1) and (2) of UNCLOS, which provides that every State is to effectively ensure its jurisdiction and control over fishing vessels flying its flag. Cameroon thus failed to discharge its due diligence obligation to deploy adequate means, to exercise best possible efforts and to do the utmost to prevent IUU fishing activities by ships flying its flag. This failure is also not in line with paragraphs 34 and 35 of the IPOA-IUU which provide that States should ensure that fishing vessels entitled to fly their flag do not engage in or support IUU fishing activities and that also ensure that, before registering a fishing vessel, flag States can exercise their responsibility to ensure that such vessels do not engage in IUU fishing.
- (49) As a consequence, the Commission cannot exclude that fishing vessels registered in Cameroon, in addition to the two vessels mentioned in recital (46), thereby having its nationality and being entitled to fly its flag, have carried out IUU fishing or fishing-related activities in areas beyond the national jurisdiction of Cameroon, including in areas under jurisdiction of third countries and have used third countries' ports. In addition, Cameroon's lack of control on fishing vessels flying its flag enables such vessels to land and/or tranship fishery products and therefore cannot impede the entry of fishery products stemming from IUU fishing into the markets.
- (50) In view of the developments occurring after 17 February 2021, the Commission considers, pursuant to Article 31(3) and (4)(a) of the IUU Regulation, that Cameroon has failed to discharge its duties incumbent upon it under international law as a flag State to take action to prevent, deter and eliminate IUU fishing, and pursuant to Article 31(3) and (4)(b) of the IUU Regulation, has not taken sufficient action to prevent access of fisheries products stemming from IUU fishing to the markets.

### 3.2. Failure to cooperate and to enforce (Article 31(5) of the IUU Regulation)

- (51) As described in recitals (30) to (43) of the Decision of 17 February 2021, the Commission analysed whether Cameroon cooperated effectively with the Commission in responding to questions, providing feedback or investigating matters concerning IUU fishing and related activities.
- (52) After the Decision of 17 February 2021, the Commission continued encountering difficulties in establishing cooperation with the authorities of Cameroon. Cameroon did not provide the Commission with the necessary information and a response on questions pertaining to fishing vessels flying its flag and their activities, including a comprehensive list of fishing vessels registered under their flag.
- (53) Following the exchanges in April 2021, the Commission invited Cameroon to provide a number of documents. To date and despite numerous follow-up messages conveyed, the Commission has not received all the documents and information object of the cooperation.
- (54) According to statements made by the authorities of Cameroon and also documents gathered by the Commission, this failure to cooperate is exacerbated by the lack of internal coordination within the Cameroonian administration, namely between the maritime authorities in charge of registration of vessels and those in charge of management and conservation of fisheries resources.

<sup>(13)</sup> Vessels KONYUI and PILOT WHALE (IMO No 7703986).

<sup>(14)</sup> Vessel AKT, IMO No 9923310, registered on 16 November 2020.

- (55) After the Decision of 17 February 2021, the maritime authorities of Cameroon continued registering IUU listed fishing vessels, despite their indications that meetings had taken place between both administrations and that a joint decision on the registration procedure was being drafted. Reports of these meetings were provided to the Commission in June 2022, but not the joint decision between both administrations itself. In fact, it was indicated that this decision will not be adopted by the authorities of Cameroon <sup>(15)</sup>.
- (56) In addition, as underlined in recital (31) of the Decision of 17 February 2021, when assessing whether Cameroon complied with its obligations as a flag, port, coastal and market State, the Commission also analysed whether Cameroon cooperated with other States and relevant RFMOs with regard to vessels flying its flag and listed on IUU vessel lists by such organisations.
- (57) Following correspondence from the Commission, Cameroon contacted the authorities of Bangladesh in relation to the registration status of fishing vessels SEA VIEW and SEA WIND. The authorities of Cameroon also mentioned that they contacted the authorities of Pakistan in relation to a vessel flying the flag of Cameroon.
- (58) However, although the Commission provided the necessary contacts to Cameroon, the Commission did not receive any proof indicating that the authorities of Cameroon contacted the IOTC Secretariat to inform them of the removal from the national registry of three IUU listed vessels <sup>(16)</sup>. Therefore, these vessels continue appearing as flying the flag of Cameroon in several RFMOs IUU lists <sup>(17)</sup>.
- (59) Cameroon has not replied to mutual assistance requests sent by one Member State in 2020 pursuant to Article 51 of the IUU Regulation, as described in recital (31) of the Decision of 17 February 2021, and to requests made in 2021 from another Member State in relation to information on fishing vessels flying its flag, despite the demand from the Commission.
- (60) The Commission therefore observes that no progress has been made in this respect since the Decision of 17 February 2021.
- (61) The situation described in recitals (52) to (60) indicates that Cameroon failed to cooperate and coordinate activities with other States where fishing vessels flying the flag of Cameroon operated, including by using third countries' ports, in order to prevent, deter and eliminate IUU fishing as set out in point 28 of the IPOA IUU. Furthermore, as established in point 31 of the IPOA-IUU, Cameroon, as a flag State, should consider entering into agreements or arrangements with other States and otherwise cooperate for the enforcement of applicable laws and management measures or provisions adopted at national, regional or international level, particularly with the countries where its vessels operate. The Commission has not been made aware of the existence of any such agreements, even though several fishing vessels flying the flag of Cameroon operate in waters under third countries' jurisdiction and use third countries' ports.
- (62) As explained in recitals (33) to (39) of the Decision of 17 February 2021, the Commission also analysed whether Cameroon had taken adequate enforcement measures to prevent, deter and eliminate IUU fishing and whether sanctions of sufficient severity to deprive the offenders of the benefits accruing from their IUU fishing activities had been applied.
- (63) Available evidence confirms that Cameroon has not fulfilled its obligations under international law with respect to its registration procedure and the control over vessels flying its flag.

<sup>(15)</sup> Instead, it was decided to involve the fisheries authorities in the monitoring centre according to a draft decree, decree which includes provisions on the vessels' registration procedure.

<sup>(16)</sup> Vessels SEA WIND, SEA VIEW and PROGRESO which were listed in first instance by the IOTC.

<sup>(17)</sup> Lists of RFMOs: CCSBT, ICCAT, IOTC, NEAFC, SIOFA.



- (64) The authorities of Cameroon explained that they started a process of de-registration from the national registry of all fishing vessels involved in or suspected of IUU fishing in the EEZs of coastal States. According to information gathered by the Commission, the two fishing vessels which have been sanctioned by a coastal State for IUU fishing activities <sup>(18)</sup> continue flying the flag of Cameroon <sup>(19)</sup>. Furthermore, after the Decision of 17 February 2021, according to information gathered by the Commission, the authorities of Cameroon granted its nationality at least to one IUU listed vessel (vessel FREEDOM 7), despite the fact that this vessel is included in several RFMOs IUU lists <sup>(20)</sup>.
- (65) In addition, the authorities of Cameroon indicated to the Commission that the vessels that had been caught carrying out IUU fishing activities in waters under Cameroon's jurisdiction were financially and administratively sanctioned in accordance with applicable rules. However, according to information provided by the authorities of Cameroon in June 2022, sanctions have been taken in 2017, in relation to IUU fishing activities carried out by three vessels flying the flag of third countries, and not regarding the recent cases mentioned in recital (46) of this Decision.
- (66) Pursuant to information gathered by the Commission and information retrieved from open databases, fishing vessels flying the flag of Cameroon continued operating in waters outside the Cameroonian jurisdiction after the Decision of 17 February 2021. While Cameroon affirmed that Law No 94/01 does not preclude the possibility for its fishing vessels to operate in waters under third countries' jurisdiction <sup>(21)</sup>, the Commission has not been made aware of any measures taken by the authorities of Cameroon to ensure an effective control over those vessels, except the draft decree to create a monitoring centre of fishing vessels flying the flag of Cameroon. Nevertheless, it remains unclear if and how the fishing vessels could be effectively controlled by the authorities in the future only through the use of AIS technology <sup>(22)</sup>. In addition, Cameroon continued granting its flag to fishing vessels operating outside waters under its jurisdiction.
- (67) Furthermore, a fishing vessel continued operating in waters outside Cameroon's jurisdiction under the flag of Cameroon in 2021 while being de-registered from the national registry and not having a valid registration certificate since May 2019. The lack of fulfilment by Cameroon of its obligation to control its vessels allowed such fishing vessel to continue operating under Cameroon's flag <sup>(23)</sup>.
- (68) The Commission therefore observes that Cameroon had not remedied the situation of deficient monitoring of its fishing fleet and therefore failed to fulfil Article 94(2)(b) of UNCLOS which provides that a flag State assumes jurisdiction under its internal law over each ship flying its flag and its master, officers and crew.
- (69) In addition, as highlighted in recital (34) of the Decision of 17 February 2021, this is also not in line with points 31, 32 and 33 of the FAO Voluntary Guidelines for Flag State Performance that require that flag States implement a control scheme over vessels flying their flag and must have in place enforcement measures that allow, among others, to detect violations of applicable laws, regulations and international conservation and management measures as well as apply adequate sanctions and measures against offenders. Sanctions and measures should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal fishing activities.
- (70) The authorities of Cameroon confirmed the de-registration of three IUU listed vessels mentioned in recital (34) from their national registry for 'illegal fishing' <sup>(24)</sup>. However, the authorities of Cameroon have not mentioned other sanctions towards these vessels and their operators other than removal from the registry. As underlined in recital

<sup>(18)</sup> See recital (46).

<sup>(19)</sup> According to information gathered by the Commission on open database and in addition, both vessels are not included in the list of vessels having been de-registered provided in June 2022 by the authorities of Cameroon.

<sup>(20)</sup> See recital (35).

<sup>(21)</sup> See recital (40).

<sup>(22)</sup> See recital (44).

<sup>(23)</sup> See recital (45).

<sup>(24)</sup> Vessel UTHAIWAN (previous name WISDOM SEA REEFER, IMO No 7637527) has been scrapped.

(37) of the Decision of 17 February 2021, de-registration of fishing vessels is not a sufficient measure for a flag State to take, as such measure does not address the IUU fishing activity, and it does not ensure application of deterrent sanctions or measures against IUU fishing activities carried out.

- (71) Furthermore, as indicated in recital (46), two fishing vessels flying the flag of Cameroon have been sanctioned for IUU fishing activities in 2021 by a third country. The Commission has not been informed of any sanctions taken by Cameroon towards these fishing vessels and their operators. The authorities of Cameroon have only indicated that one of these vessels was de-registered from the national registry, without providing evidence of this de-registration or the settlement of the sanctions imposed by the third country, in line with paragraph 24 of the FAO Voluntary Guidelines for Flag State Performance.
- (72) As already indicated in recital (38) of the Decision of 17 February 2021, this is not in line with the recommendations to take enforcement measures in respect of IUU fishing activities and to sanction offenders with sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing, as set out in paragraph 21 of the IPOA-IUU, paragraph 8(2)(7) of the FAO Code of Conduct for Responsible Fisheries as well as points 31 to 33, 35 and 38 of the FAO Voluntary Guidelines for Flag State Performance.
- (73) In accordance with Article 31(5)(c) of the IUU Regulation, the Commission analysed the extent and gravity of the manifestations of the IUU fishing considered.
- (74) The Commission has taken into account the repetitive shortcomings from the authorities of Cameroon and its fishing vessels that led to the Decision of 17 February 2021, after the adoption of that Decision.
- (75) After the Decision of 17 February 2021, the authorities of Cameroon registered another IUU listed vessel and continued expanding their long-distance fishing fleet despite not having the necessary means to control the activities of such vessels.
- (76) After the Decision of 17 February 2021, the authorities did not contact relevant States and RFMOs in order to cooperate and provide further information on fishing vessels flying the flag of Cameroon.
- (77) As highlighted in recitals (51) to (53) of the Decision of 17 February 2021, the level of development of Cameroon cannot be considered as a factor undermining the capacity of the competent authorities to cooperate with other countries and pursue enforcement actions. The evaluation of the specific constraints due to Cameroon's level of development is further described in recitals (86) to (90) of the present Decision.
- (78) In view of recitals (30) to (42) of the Decision of 17 February 2021 and the developments after 17 February 2021, the Commission takes the view, pursuant to Article 31(3) and (5) of the IUU Regulation that Cameroon has failed to discharge the duties incumbent upon it under international law in respect of cooperation and enforcement efforts.

### **3.3. Failure to implement international rules (Article 31(6) of the IUU Regulation).**

- (79) As described in the recitals (45) to (49) of the Decision of 17 February 2021, in accordance with Article 31(6)(a) and (b) of the IUU Regulation, the Commission analysed Cameroon's ratification or accession to relevant international fisheries instruments and its status as a contracting party to RFMOs or its agreement to apply the conservation and management measures adopted by them.
- (80) As indicated in recitals (45) and (47) of the Decision of 17 February 2021, Cameroon has not ratified international legal instruments related to fisheries management, except UNCLOS, nor is it a contracting party or a cooperating non-contracting party to any RFMOs.

- (81) The authorities of Cameroon indicated that a working group has been set up in view of the ratification of the Cape Town Agreement of 2012, related to the safety of fishing vessels <sup>(25)</sup>. The Commission has not been informed of any similar *démarches* in relation to other agreements. The authorities of Cameroon have nevertheless acknowledged that they should accede certain relevant fisheries international agreements.
- (82) As highlighted in recital (46) of the Decision of 17 February 2021, this is not in accordance with the duty to cooperate and the obligation to take, or to cooperate to take measures necessary for the conservation of marine living resources in the high seas as established in Articles 117 and 118 of UNCLOS. This lack of cooperation is also against the recommendations of paragraph 11 of the IPOA-IUU, which encourages States, as a matter of priority, to ratify, accept or accede to the UNFSA and the FAO Compliance Agreement. This is also not in line with paragraph 14 of the IPOA-IUU that provides that States should fully and effectively implement the FAO Fisheries Code of Conduct and its associated International Plans of Action.
- (83) In accordance with Article 31(6)(c) of the IUU Regulation, the Commission analysed whether Cameroon might have been involved in any acts or omissions that may have diminished the effectiveness of applicable laws, regulations or international conservation and management measures.
- (84) As indicated in recital (49) of the Decision of 17 February 2021, by registering fishing vessels listed under RFMOs IUU lists in the Cameroon national registry and therefore granting them the right to fly its flag, the authorities of Cameroon have diminished the effectiveness of conservation and management measures adopted by RFMOs which is not in line with point 35 of the FAO Voluntary Guidelines for Flag State Performance and paragraphs 38 and 39 of the IPOA-IUU. As described in recital (36) of this decision, this registration policy continued after the Decision of 17 February 2021.
- (85) In view of recitals (45) to (49) of the Decision of 17 February 2021 and the subsequent developments mentioned above, the Commission considers, pursuant to Article 31(3) and (6) of the IUU Regulation, that Cameroon has failed to discharge the duties incumbent upon it under international law with respect to international rules, regulations as well as conservation and management measures.

#### 3.4. Specific constraints of developing countries (Article 31(7) of the IUU Regulation)

- (86) It is recalled that according to the United Nations Human Development Index (UNHDI), in 2019 Cameroon was considered as a medium human development country, ranked 153 out of 189 countries <sup>(26)</sup>.
- (87) As described in recital (52) of the Decision of 17 February 2021, no corroborating evidence has been found to suggest that the failure of Cameroon to discharge its duties under international law is the result of development constraints.
- (88) Although specific capacity constraints may exist with respect to monitoring, control and surveillance of its fleet, the specific constraints of Cameroon derived from its level of development do not justify all the deficiencies identified in the previous sections. In particular, the nature of the established shortcomings of Cameroon, such as absence of specific provisions in the national legal framework referring to the management of its fishing fleet and to combat, deter and eliminate IUU fishing activities, the lack of procedures ensuring proper verification of the registration of fishing vessels under its flag and the lack of cooperation with the Commission, RFMOs or administrations of other countries, cannot be correlated to the level of development of Cameroon and the specific constraints it may have. No evidence has been presented by the authorities of Cameroon indicating that the identified shortcomings are a consequence of a lack of capacity and infrastructure.
- (89) Furthermore, the authorities of Cameroon received support to strengthen the national actions to fight against IUU fishing from the Food and Agriculture Organisation of the United Nations (FAO) <sup>(27)</sup>.

<sup>(25)</sup> See recital (29).

<sup>(26)</sup> Information retrieved from <https://hdr.undp.org/en/countries/profiles/CMR>.

<sup>(27)</sup> <https://www.fao.org/iuu-fishing/capacity-development/en/>.

- (90) In view of recitals (51), (52), and (53) of the Decision of 17 February 2021 and the developments after this date, the Commission takes the view, pursuant to Article 31(7) of the IUU Regulation, that the development level of Cameroon does not impair its overall performance as flag, port, coastal or market State with respect to fisheries and therefore cannot fully excuse or otherwise justify the insufficiency of its actions to prevent, deter and eliminate IUU fishing.

#### 4. CONCLUSION ON THE IDENTIFICATION AS A NON-COOPERATING THIRD COUNTRY

- (91) In view of the conclusions reached with regard to Cameroon's failure to discharge its duties under international law as flag, port, coastal or market State and to take action to prevent, deter and eliminate IUU fishing, this country should be identified, in accordance with Article 31 of the IUU Regulation, as a non-cooperating third country in fighting against IUU fishing.
- (92) Having regard to Article 18(1)(g) of the IUU Regulation, the competent authorities of the Member States are bound to refuse the importation into the Union of fishery products without having to request any additional evidence or send a request for assistance to the flag State where they become aware that the catch certificate has been validated by the authorities of a flag State identified as a non-cooperating State in accordance with Article 31 of that Regulation.
- (93) It should be stated that the identification of Cameroon as a country the Commission considers to be non-cooperating does not preclude any potential subsequent step taken by the Council for the purpose of establishing a list of non-cooperating countries.

#### 5. COMMITTEE PROCEDURE

- (94) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

##### *Article 1*

Cameroon is identified as a third country that the Commission considers as a non-cooperating third country in fighting illegal, unreported and unregulated fishing.

##### *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 Brussels, 5 January 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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