

**COMMISSION DECISION****of 12 December 2019****on notifying the Republic of Panama of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing**

(2020/C 13/06)

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>, and in particular Article 32 thereof,

Whereas:

**1. INTRODUCTION**

- (1) Regulation (EC) No 1005/2008 (hereinafter ‘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 with respect to the identification of non-cooperating third countries in fighting against IUU fishing, the démarches in respect of countries identified as non-cooperating third countries, the establishment of a list of non-cooperating third countries, the removal of those countries from that list, the publicity of the list of non-cooperating countries and any emergency measures.
- (3) Pursuant to Article 31 of the IUU Regulation, the Commission is to identify the third countries that it considers as non-cooperating countries in fighting against 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.
- (5) Prior to identifying third countries as non-cooperating under Article 31 of the IUU Regulation, the Commission is to first notify third countries of the possibility of being identified as non-cooperating countries in accordance with Article 32 of that Regulation. This notification is of a preliminary nature.
- (6) The notification of third countries of the possibility of being identified as non-cooperating countries is also to be based on the criteria laid down in Article 31 of the IUU Regulation.

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

- (7) In addition, the Commission is to take into account all the *démarches* set out in Article 32 of the IUU Regulation with respect to the notified third countries. In particular, the Commission is to include in the notification information concerning the essential facts and reasons for the identification as well as to provide the third countries concerned with the opportunity to respond and provide evidence refuting the identification or, where appropriate, a plan of action to improve and the measures taken to rectify the situation. The Commission is to give to the third countries concerned adequate time to answer the notification and a reasonable time to remedy the situation.
- (8) In accordance with Article 33 of the IUU Regulation, the Council is to decide on a list of non-cooperating third countries. The measures set out, *inter alia*, in Article 38 of the IUU Regulation apply in respect of those identified countries.
- (9) Pursuant to Article 20(1) of the IUU Regulation, the acceptance of catch certificates validated by a third flag State is subject to the condition that the Commission has received a notification from the flag State concerned certifying that it has in place arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels.
- (10) In accordance with Article 20(4) of the IUU Regulation, the Commission is, where appropriate, to cooperate administratively with third countries in areas pertaining to the implementation of the catch certification provisions of that Regulation.

## 2. PROCEDURE WITH RESPECT TO THE REPUBLIC OF PANAMA

- (11) The Republic of Panama (hereinafter 'Panama') submitted its notification as a flag State pursuant to Article 20 of the IUU Regulation to the Commission on 3 February 2010.
- (12) In the context of the administrative cooperation provided for in Article 20(4) of the IUU Regulation, from 21 June 2010 to 15 November 2012, the Commission cooperated with the authorities of Panama to verify information concerning Panama's arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures, which had to be complied with by its fishing vessels, and measures taken by Panama in order to implement its obligations in the fight against IUU fishing.
- (13) Pursuant to Article 31(3) of the IUU Regulation, the Commission analysed the duties of Panama as flag, port, coastal or market State. For the purpose of this review, the Commission took into account the parameters listed in Article 31(4) to (7) of the IUU Regulation.
- (14) After examining all the factual elements gathered and all the statements made by the country, the Commission established, pursuant to Article 31(4) to (7) of the IUU Regulation, that Panama had failed to discharge the duties incumbent upon it under international law, in particular in relation to compliance with international rules as well as to ensure compliance with regulations and conservation and management measures by its vessels.
- (15) Accordingly, by virtue of the Commission Decision 2012/C 354/01 of 15 November 2012, Panama was notified of the possibility of being identified as a non-cooperating third country in the fight against IUU fishing. <sup>(1)</sup>
- (16) Panama was invited to cooperate with the Commission on the basis of a proposed action plan to rectify the shortcomings identified.
- (17) In the framework of the bilateral dialogue that followed on from the Commission Decision 2012/C 354/01, Panama submitted oral and written comments that were taken into account by the Commission. The Commission continued to seek and verify all information it deemed necessary.
- (18) Panama introduced the necessary measures for the cessation of IUU fishing activities in question and their prevention, rectifying any act or omission leading to the notification of the possibility of being identified as non-cooperating country in fighting IUU fishing.
- (19) As a result, by notice dated 15 October 2014, the Commission decided to conclude the *démarches vis-à-vis* Panama pursuant to the provisions of Article 32 of the IUU Regulation with respect to the discharge of its duties incumbent upon it under international law as flag, port, coastal or market State and their actions to prevent, deter and eliminate IUU fishing. <sup>(2)</sup>

<sup>(1)</sup> OJ C 354, 17.11.2012, p. 1.

<sup>(2)</sup> OJ C 364, 15.10.2014, p. 2.

- (20) The Commission, however, emphasised that the termination of *démarches* did not preclude any subsequent step by the Commission or the Council in the future, in case factual elements would reveal that Panama would fail 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.
- (21) From 29 January to 1 February 2019, the Commission conducted a visit to Panama in the context of the administrative cooperation provided for in Article 20(4) of the IUU Regulation.
- (22) This visit covered issues pertaining to the national arrangements in place for the verification of catch certificates, the implementation, control and enforcement of laws, regulations and conservation and management measures, which must be complied with by Panamanian vessels. It also covered assessment of the effective implementation of the measures taken by Panama in order to rectify the shortcomings that led to the notification referred to in paragraph (15) above.
- (23) From 15 to 19 July 2019, the Commission carried out a second visit to Panama to follow up on the measures taken by Panama since the previous mission.
- (24) These two visits and their follow-up entailed exchange of oral and written comments where the Commission sought and verified all information deemed necessary concerning the measures taken by Panama in order to implement its obligations in the fight against IUU fishing.
- (25) Panama is a State party to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), <sup>(4)</sup> the Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (UNFSA) and the Agreement on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing (PSMA). Panama has also transposed into its national legislation the Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). <sup>(5)</sup>
- (26) Panama is a Contracting Party of the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Commission for the Conservation of the Antarctic Marine Living Resources (CCAMLR). Panama is a Cooperating Non-Contracting Party to the Western and Central Pacific Fisheries Commission (WCPFC), the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the North-East Atlantic Fisheries Commission (NEAFC).
- (27) In order to evaluate the compliance of Panama with its international obligations as flag, port, coastal or market State as set out in the international arrangements referred to in paragraph (26) above and established by the relevant Regional Fisheries Management Organisations (RFMOs), the Commission sought, collected and analysed all necessary information required for the purpose of this exercise.

### 3. POSSIBILITY OF PANAMA BEING IDENTIFIED AS A NON-COOPERATING THIRD COUNTRY

- (28) Information gathered by the Commission during the period that followed its decision to conclude the *démarches vis-à-vis* Panama in 2014 and the shortcomings identified during the 2019 visits to Panama prompted the Commission to consider the possibility of identifying Panama as a non-cooperating third country in the fight against IUU fishing.
- (29) Pursuant to Article 31(3) of the IUU Regulation, the Commission analysed the duties of Panama as flag, port, coastal and market State. For the purpose of this review, the Commission took into account the criteria laid down in Article 31(4) to (7) of the IUU Regulation.

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

- (30) In accordance with Article 31(4)(a), the Commission analysed the measures taken by Panama with respect to any recurrent IUU fishing activity carried out or supported by fishing vessels flying its flag or by its nationals, or by fishing vessels operating in its maritime waters or using its ports.

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<sup>(4)</sup> <https://treaties.un.org/>

<sup>(5)</sup> International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Food and Agriculture Organization of the United Nations, 2001.

- (31) On the basis of publically available information and information provided by the relevant authorities of Panama, the Commission established that the national authority in charge of the Panama Ship Registry, the Panama Maritime Authority (AMP), registered vessels that had declared that they would not engage in fishing activities, but that later engaged in such activities. This entailed Panama-flagged vessels engaging in fishing activities without the mandatory licence from the national fisheries authority, the Aquatic Resources Authority of Panama (ARAP), and therefore engaging in fishing activities not subject to any form of monitoring, control and surveillance by the competent authority. This also prevented the establishment of a consolidated list containing all fishing vessels and vessels used for and equipped to be used for fishing-related activities, flying the flag of Panama, which in turn, indicated that Panama does not exercise an adequate control over its vessels.
- (32) This absence of control by the competent authority resulted in serious breaches of the applicable laws, regulations and conservation and management measures. Carrier vessels that were registered as general cargo vessels were effectively used in the transport of fishery products without a licence from ARAP and without any other type of control from ARAP or the AMP. As an example, in 2016 two carrier vessels flagged to Panama conducted transshipments in the SPRFMO area whereas they were not on the SPRFMO Record of Vessels authorised to fish in the Convention Area.
- (33) Moreover, a carrier vessel under the name of SUMMER REFER (previous name: OKAPI MARTA, IMO No 7816472) was registered in Panama from June 2018 to February 2019 as a general cargo vessel although this vessel is on the General Fisheries Commission for the Mediterranean (GFCM) IUU vessel list since 2016. The AMP did not consult ARAP before registering this vessel although it is a vessel equipped for the transport of fish and hence could have engaged in fishing-related activities. It is worth noting that the deregistration of this vessel did not relate to the fact that the vessel was listed as an IUU vessel.
- (34) In addition, the NIKA (IMO No 8808654), a fishing vessel that was registered in Panama as a general cargo vessel since June 2018, was found to be engaged in IUU fishing activities in the first half of 2019 in an area covered by the CCAMLR Convention without a licence from ARAP.
- (35) Furthermore, in June 2019 at its 23rd session, the Indian Ocean Tuna Commission (IOTC) adopted a list of vessels presumed to have carried out IUU fishing in the IOTC area of competence that includes the XING HAI FENG (previous name: OCEAN LION, IMO No 7826233), a vessel flagged to Panama.
- (36) Contrary to paragraphs 36 and 42 of the IPOA-IUU, the procedures in place prior to the registration of vessels do not include a comprehensive verification of the history of the vessels to avoid the registration of fishing vessels with a dubious background or compliance profile as well as vessels listed in the IUU vessel list adopted by RFMOs.
- (37) The basic legal framework establishing a monitoring, control and surveillance scheme is the Executive Decree 161 of 2013. The current fishing licence and authorisation scheme is based in the Executive Decree 162 of 2013. The adoption of these decrees, along with the Executive Decree 160 on sanctions, was decisive for the conclusion of the *démarches vis-à-vis* Panama, in October 2014, pursuant to the provisions of Article 32 of the IUU Regulation as described in paragraph (19) above. However, the Commission identified that these decrees are not being duly implemented.
- (38) As an example, in relation to the carrier vessels authorised by ARAP to engage in transshipment operations of fishery products, the Commission found that Panama did not monitor the compliance of those vessels with national provisions governing transshipments activities, such as the obligation to submit a transshipment pre-notification and a transshipment declaration. As an example, a carrier vessel was able to operate during 2018 off the West African coasts without submitting any transshipment pre-notification. It should be noted that the failure to comply with these obligations is considered, under the national legislation of Panama, as a serious infringement. In addition, this has resulted in recent SPRFMO and WCPFC compliance reports underlining serious issues with transshipments by Panama-flagged vessels. <sup>(6)</sup>
- (39) The Commission also gathered information that show that Panama is not properly monitoring and controlling the catching activities of Panama flagged fishing vessels. For instance, a fishing vessel was able to operate in the Indian Ocean while its licence was only valid for the Pacific Ocean. Likewise, another vessel engaged in fishing activities in the area known in IATTC as 'El Corralito' during the period when this area was closed to fishing. This was in contravention of the IATTC Resolution C-17-02.

<sup>(6)</sup> WCPFC TCC14 of September 2018 and SPRFMO CTC5 of January 2018.

- (40) With regard to the information mentioned above, the Commission concluded that Panama failed to fulfil its responsibilities as flag State to prevent its fleet from engaging in IUU fishing activities in the high seas. This is in breach of Article 94(1) and (2) of UNCLOS, which provides that every State shall effectively ensure its jurisdiction and control over ships flying its flag. It is also not in line with paragraph 24 of the IPOA-IUU which provides for the obligation to undertake comprehensive and effective control of fishing activities.
- (41) Pursuant to article 31(4)(b) of the IUU Regulation, the Commission examined the measures taken by Panama in respect of access of fisheries products stemming from IUU fishing to its market and subsequent trade flows.
- (42) After analysing documentation and other information relating to import controls as well as vessel monitoring and control procedures, the Commission considers that Panama cannot ensure that fishery products entering its market and processing plants do not stem from IUU fishing. The authorities of Panama were not able to demonstrate they are collecting and verifying all the necessary information required to control the legality of fish entering their market, transiting or processed in Panama.
- (43) The Commission notably identified significant inconsistencies in the information reported by the processing plant the Commission visited in July 2019. As an example, records of the plant were mentioning reception of fish caught by a vessel which, on that day, was still at sea and had not yet arrived at the landing pier. The same plant was also unable to provide any of the ICCAT swordfish statistical documents, which should have accompanied the 24 imports of swordfish from the ICCAT area that the plant had done in 2019. None of these issues had been detected by Panamanian authorities.
- (44) Added to this problem, Panama validates catch certificates without properly verifying the information provided in those certificates. Prior to the first visit that the Commission conducted in 2019, the European Fisheries Control Agency (EFCA) carried out an analysis of a sample of catch certificates validated by Panama in 2018. EFCA identified numerous mistakes, such as missing fields, inaccuracies in the catch areas, mistakes in the quantities, confusion on the vessel master name, that led to the conclusion that verifications prior to the validation of catch certificates are of a superficial nature. Dubious logbook information was also detected by the Commission whilst verifying the information supporting certain catch certificates.
- (45) The Commission concluded that the information related to the origin and traceability of the fishery products that enter and leave the country, or caught by Panama-flagged vessels, was not accurate and reliable. Panama has failed to enforce rules to ensure traceability of fish or fishery products through the market in accordance with paragraphs 67 to 69 and 71 to 72 of the IPOA-IUU.
- (46) The Commission also identified three cases where ARAP determined the amount of the fines imposed to three Panamanian vessels fishing in the waters under Panama's national jurisdiction for committing serious infringements to national conservation and management measures (CMMs) without taking into consideration the range of pecuniary sanctions as established by Panama's legislation. As a result, the amounts imposed were actually much lower than the minimum amount laid down in Panama's legislation, and therefore considered not adequate in severity to be effective in securing compliance and to discourage violations and deprive offenders of the benefits accruing from their illegal activities, as required by Article 19(2) of the UNFSA.
- (47) Furthermore, a review of the information available on board of a foreign-flagged vessel, which had already been inspected and authorised to land its catches in one of the designated ports in Panama, allowed the Commission to establish that this vessel had actually engaged in fishing activities without a licence in the waters of a third country, and that this evidence had not been detected by the inspectors who authorised the landing in Panama.
- (48) In view of the considerations presented in this Section and on the basis of all factual elements gathered by the Commission as well as all the statements made by the competent authorities of Panama, it could be established, pursuant to Article 31(3),(4)(a) and (4)(b) of the IUU Regulation, that Panama fails to discharge its duties under international law as flag, port, coastal and market State in respect of IUU vessels and IUU fishing carried out or supported by fishing vessels flying its flag or by its nationals, and to prevent access of fisheries products stemming from IUU fishing to its market.

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

- (49) Under Article 31(5)(a) of the IUU Regulation, the Commission analysed its collaboration with Panama to see if the authorities had effectively cooperated in responding to questions, providing feedback or investigating matters related to IUU fishing and related activities.
- (50) In preparation of and after the 2019 Commission's first visit, the authorities of Panama have been generally cooperative in responding and providing feedback to requests for information. However, during the period between the termination of the *démarches vis-à-vis* Panama as described in paragraph (19) above and before the Commission contacted Panama to organise the 2019 first visit, Panama had not replied to several requests for information sent by the Commission or by EU Member States during the period between 2015 and 2018.
- (51) In accordance with Article 31(5)(b), the Commission analysed existing enforcement measures to prevent, deter and eliminate IUU fishing.
- (52) The current sanctioning system is based on the Executive Decree 160 of 2013. The adoption of this legal instrument, together with the other two Executive Decrees mentioned above, was crucial for the termination of the *démarches vis-à-vis* Panama in October 2014. However, Panama has not duly implemented the Executive Decree 160.
- (53) The information gathered by the Commission and the exchanges with the authorities of Panama revealed that the sanctions imposed to vessels engaging or supporting IUU fishing activities, activities listed in the Executive Decree 160 as serious, are not effective and deterrent.
- (54) For instance, according to the said Executive Decree, the range of pecuniary sanctions is 10 001 to 1 000 000 balboas (10 001 to 1 000 000 USD) — the equivalent of 9 123,23 to 912 231,49 EUR. Nevertheless, 80 % of the fines imposed on serious infringements during the period between 2014 and 2018 were below 12 000 balboas and only two fines were higher than 20 000 balboas. Therefore, sanctions imposed by the authorities of Panama are hardly commensurate with the value of the catches and benefits incurred from serious infringements and not adequate in severity to be effective in securing compliance and to discourage further violations.
- (55) As mentioned above, the Commission identified three cases where ARAP determined the amount of the fines imposed to three Panamanian vessels fishing in the waters under Panama's national jurisdiction for committing serious infringements to CMMs without taking into consideration the range of pecuniary sanctions as established by the Executive Decree 160. The amounts imposed were actually much lower than the minimum amount provided for in this instrument. In these three cases, ARAP imposed pecuniary sanctions of 3 792,50 balboas, 3 652,00 balboas and 3 652,00 balboas while the minimum amount that can be imposed, according to the said Executive Decree, is 10 001,00 balboas.
- (56) The actual level of sanctions imposed clearly fails to ensure the deterrence of the sanctioning scheme and does not reflect Article 19(2) of the UNFSA, which provides that sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offender of the benefits accruing from their illegal activities. Moreover, paragraph 21 of the IPOA-IUU advises that States should ensure that sanctions for IUU fishing by vessels and, to the greatest extent possible, by nationals under its jurisdiction, are of sufficient severity to deprive offenders of the benefits accruing from such fishing.
- (57) In addition, the enforcement proceedings are affected by the existence of very significant delays both in the opening of the procedures against vessels allegedly involved in IUU fishing activities as well as in the imposition of sanctions. In most cases, proceedings take several years to be concluded.
- (58) In light of the information gathered on the legal framework and the ongoing enforcement proceedings to establish infringements and impose consequent sanctions, the Commission concluded that Panama failed to implement Article 19(2) of the UNFSA. This provision establishes that all investigations and judicial proceedings shall be carried out expeditiously and that sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offender of the benefits accruing from their illegal activities.
- (59) In view of the considerations presented in this Section, and on the basis of all factual elements gathered by the Commission, as well as all the statements made by the authorities of Panama, it could be established, pursuant to Article 31(3) and (5) of the IUU Regulation, that Panama failed to discharge its duties under international law with respect to cooperation and enforcement.

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

- (60) In accordance with Article 31(6)(a) and (b) of the IUU Regulation, the Commission analysed Panama's ratification or accession to relevant international fisheries instruments and its status as a contracting party to RFMOs or its agreement to apply conservation and management measures adopted by them.
- (61) Panama ratified UNCLOS in 1996 and acceded to UNFSA in 2008. Panama also acceded to the PSMA in 2016. In addition, Panama transposed the Code of Conduct for Responsible Fisheries and the IPOA-IUU in 2009.
- (62) The current fisheries legal framework is provided by the Executive Decrees of 2013 mentioned above and the transposition of standards laid down in international instruments related to fisheries into the national legislation of Panama. The Fisheries Law currently in force dates back to 1959 and it is not yet aligned with the contemporary relevant international instruments to which Panama is a party and with other international standards related to fisheries that Panama has agreed to apply. Panama is still in the process of revision of the Fisheries Law, although Panama had been requested to update its Fisheries Law.
- (63) In relation to the PSMA, information gathered by the Commission demonstrates that Panama has poorly implemented the provisions of this agreement. On July 2018, the VLADIVOSTOK 2000 (previous names: DAMANZAIHAO, LAFAYETTE, IMO No 7913622), a fish factory vessel listed in the SPRFMO IUU vessel list since 2015, was able to receive bunker supply in Panama. This is contrary to the PSMA and confirms that there is a lack of adequate implementation of the PSMA to effectively prevent IUU vessels from receiving port services in Panama.
- (64) The Commission also found that inspectors are only present in one of the designated ports (Port of Vacamonte) and that inspections conducted in that port are not carried out properly. A review of the information available on board of a foreign-flagged vessel, which had already been inspected and authorised to land its catches, allowed the Commission to establish that this vessel had actually engaged in fishing activities without a licence in the waters of a third country, and that this evidence had not been detected by the inspectors who authorised the landing in Panama. Moreover, the Commission identified calls by foreign-flagged fishing vessels that were not included in the list foreign fishing vessels calling at port provided by Panama.
- (65) As described in paragraph (26), Panama is a member of the IATTC, ICCAT and CCAMLR and a cooperating non-contracting party to the WCPFC, the SPRFMO and the NEAFC.
- (66) In accordance with Article 31(6)(c), the Commission analysed any act or omission by Panama that may have diminished the effectiveness of applicable laws, regulations or international conservation and management measures.
- (67) With regard to the fulfilment of Panama's obligations as a Contracting Party or a Cooperating Non-Contracting Party in the RFMOs mentioned above, the Commission found that Panama has not been able to ensure that rules established in the framework of those RFMOs are complied with by its vessels. As mentioned in paragraph (39) above, a vessel engaged in fishing activities in the area of IATTC, known as 'El Corralito', during the period when this area was closed to fishing. This was in breach of the IATTC Resolution C-17-02. Moreover, as stated in paragraph (32) above, in 2016 two carrier vessels flagged to Panama conducted transshipments in the SPRFMO area whereas they were not on the SPRFMO Record of Vessels authorised to fish in the Convention Area. Furthermore, as mentioned in paragraph (34) above, a fishing vessel that was registered in Panama as a general cargo vessel since June 2018 was found to be engaged in IUU fishing activities in the first half of 2019 in an area covered by the CCAMLR Convention without a licence from ARAP.
- (68) In view of the considerations presented in this Section and on the basis of all factual elements gathered by the Commission as well as all the statements made by the authorities of Panama, it could be established, pursuant to Article 31(3) and (6) of the IUU Regulation, that Panama has failed to discharge all the duties incumbent upon it under international law with respect to international rules, regulations and conservation and management measures.

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

- (69) According to the United Nations Human Development Index (UNHDI), <sup>(7)</sup> in 2018 Panama was considered a high human development country ranked 66 out of 189 countries.

<sup>(7)</sup> <http://hdr.undp.org/en/2018-update/download>

- (70) Account taken of the above UNHDI ranking and observations during the 2019 visits, no evidence suggests that the failure of Panama to discharge its duties under international law is the result of low levels of development. No tangible evidence exists to correlate shortcomings in fisheries legal framework, monitoring, control and surveillance, and traceability systems, with poor capacity and infrastructure. The Commission has responded positively to the requests made by Panama for support in the revision of the fisheries legal framework.
- (71) In view of the considerations presented in this Section and on the basis of all factual elements gathered by the Commission as well as the statements made by the country, it could be established, pursuant to Article 31(7) of the IUU Regulation, that the development status and overall performance of Panama with respect to fisheries management are not impaired by its level of development,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Republic of Panama shall be notified of the possibility of being identified by the Commission as a non-cooperating third country in the fight against illegal, unreported and unregulated fishing.

Done at Brussels, 12 December 2019.

*For the Commission*  
Virginijus SINKEVIČIUS  
*Member of the Commission*

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