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**THE DEVELOPMENT AND ENFORCEMENT OF NATIONAL PLANS OF ACTIONS TO PREVENT,
DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING:
THE SPANISH CASE**

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INTRODUCTION

1. In response to the International Plan of Action (IPOA-IUU), adopted by the International Community in FAO in 2001, Spain developed in November 2002 its National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (NPOA).
2. Even though the national plan of action dates from 2002, Spain has implemented an IUU control scheme since the year 2000, so we have gathered an experience of four years in dealing with different cases of IUU fishing.
3. As you all know, fighting against IUU fishing is a complex task that requires a global approach, an idea which was borne in mind by Spain when developing its national plan of action. In fact, our plan includes measures concerning state responsibilities, flag state responsibilities, coastal state measures, Port state measures, internationally agreed market-related measures, scientific research, co-operation with regional fisheries management organisations, and special requirements of developing countries.

LEGAL AND ADMINISTRATIVE INSTRUMENTS

4. The main body of legislation that Spain has in place dealing with fishing activities is Act 3/2001, on Marine Fisheries, which is applied to all national vessels, wherever they are fishing and to third countries vessels operating in waters under Spanish sovereignty or jurisdiction. It comprises a system of offences and penalties in the area of marine fishing in both the EEZ and the high seas, management of the fishing sector and trade of fishing products. Port State control is considered as the basic and essential tool to deal with IUU fishing.
5. Other legal instruments to combat IUU fishing are as follows:
 - Royal Decree 1797/1999, on the monitoring of fishing operations by vessels of third Countries in waters under Spanish sovereignty or jurisdiction.
 - Royal Decree 1134/2002, on the application of penalties to Spanish nationals employed on flag-of-convenience vessels
 - Royal Decree 176/2003, regulating control and inspection of fishing activities:
 - Ministerial Order of 12 November 1988, concerning a satellite based vessel monitoring system.

- Royal Decree 2287/1998, which defines the criteria and conditions of the interventions with a structural purpose in the fisheries sector.
- Royal Decree 601/1999, regulating the Official Register of Fisheries Companies in Third Countries.
- Royal Decree 3448/2000, with the basic regulations for structural support in the fisheries sector.

ENFORCEMENT

6. Spain strongly believes that one of the most efficient ways to combat IUU fishing is through cutting access to markets. This is the reason why Spain has concentrated its efforts in this area, which implies stringent Port and customs controls.

7. Spain has fostered through the European Community the adoption of binding instruments in the main RFMO's concerning monitoring, control and surveillance schemes, as well as catch documentation schemes and countermeasures against countries or territories that engage in IUU fishing or do not exercise control over their fleets. In any case, the adoption of the so-called "positive" lists of vessels and bluefin, bigeye, swordfish and toothfish statistical documents have proved to be an effective tool in combating IUU fishing. Landings, transshipments and imports of fish products from third countries is subject to other systematic controls. Both Customs and Fisheries Control must grant dual approval before entry of product is permitted.

8. Identification of vessels has revealed itself as another major issue. Foreign vessels coming into Spanish ports are subject to photographs and copies of hold plans are made.

9. Another difficult point is the ownership of the vessels. Spain has started a project aimed at determining the actual link between the vessel owners. A team of economists, lawyers and fisheries technicians has been created, but there is a need to increase co-operation among interested countries.

10. Vessel laundering is another way to escape from controls, that is the reason why Spain has adopted regulations to prevent flag-hopping. It is extremely difficult to determine the actual ownership of a vessel when it is covered by off-shore companies in tax-havens.

11. Following the adoption of the Royal Decree 1134/2002, on the application of penalties to Spanish nationals employed on flag-of-convenience vessels, a number of actions have been taken, specially in the field of co-operation with arresting States. We must however bear in mind that this legal instrument has a subsidiary nature, and is only applicable in such cases where the flag country or another country involved has not punished the infringing vessels.

12. One of the main obstacles Spain has bumped into when trying to implement this Decree is the lack of official co-operation with both the flag State and the country that has carried out the detention of the IUU vessel. It is very difficult to start any punitive procedures without having official supporting evidence. Much information on IUU activities or specific vessels can be found in press articles or NGO documentation, but they are not sufficient to guarantee success in a court or administrative procedure.

13. In any case, the most important aspect of combating IUU fishing is whether or not there is the political willingness and the subsequent allocation of adequate human and financial means to tackle the issue.

14. Co-operation with other countries has proved to be an excellent tool.