

Greenpeace East Asia briefing

Korea distant water fisheries; IUU fishing and human rights abuse scandals and flag State responsibility

EXECUTIVE SUMMARY

Korea is one of the leading distant water fishing powers with 359 vessels operating in all oceans in the world¹. In recent years many cases of illegal, unreported and unregulated (IUU) fishing activities and human right abuses especially of foreign crew on Korean fishing vessels have been reported. As a result of these incidents and lack of action by Korea, as flag State and State of beneficial ownership, Korea has been identified by the USA as an IUU fishing nation together with 9 other nations including Ecuador and Tanzania regarding its lack of commitment to combat IUU fishing and regulate its fleets. Concerns have also been raised over the entry on the EU market of IUU caught fish involving Korean vessels in West African waters². The question arises whether Korea is sincere about sustainable fishing or is more interested in covering up the misconduct of the Korean fishing industry, which benefits from low operating standards and business ethics, as well as illegal and abusive conduct.

Greenpeace has compiled information on IUU scandals involving Korean-flagged or Korean-owned vessels flying another flag (see table 1) . Currently there are vessels owned by 15 Korean companies identified as having been involved in IUU fishing activities internationally. Also several human right violations have been reported. Unfortunately, action taken by the Korean government to date is unclear due to the lack of transparency and secrecy in this industry and it can be assumed that punishment for these crimes by Korea has not been commensurate with the seriousness of the crimes committed. This briefing exposes Korea's blatant disregard for the international agreements by which it is bound.

The very serious cases of IUU fishing and human rights abuses by the Korean fishing industry presented demonstrate that the Korean government fails to fulfil its international responsibilities and to regulate its fishing industry, and instead lets rapacious companies exploit the Southern Ocean, steal income and food from West African nations and people using large-scale forgery, and allows cruel abuses of fishing crews in the South Pacific.

Greenpeace urges the new Ministry of Maritime Affairs and Fisheries to work with the Ministry of Foreign Affairs and the Ministry of Environment to bring the fishing industry under control by taking serious steps to stop IUU fishing activities and other violations including unsustainable fishing practises and human rights abuses. Korea must adopt a fisheries policy that ensures sustainable exploitation of resources and conservation of the marine environment based on the ecosystem and precautionary approaches. An in-depth reform is urgently required to rebuild Korea's international reputation, and to ensure the future of its fishing industry and show Korea is able to take the lead in sustainable fishing.

What is IUU fishing³?

Illegal fishing refers to activities conducted in contravention of relevant national or international laws and regulations;

Unreported fishing refers to fishing activities that have not been reported, or have been misreported, to the relevant national or regional authority.

Unregulated fishing refers to fishing activities conducted by vessels without nationality, or by those flying the flag of a State not party to a regional management organization in a manner that is not consistent with

¹ KOFA yearbook 2012

² <http://pna.atuna.com/ViewArticle.asp?ID=12561>

³ See <http://www.fao.org/fishery/ipoa-iuu/en>

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or contravenes the conservation and management measures of that organization or in areas or for fish stocks for which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

A big distant water fishing power with a long IUU fishing history

South Korea is one of the leading distant water fishing powers in the world, being ranked third globally in distant-water fishing in catch size and ranked second globally in terms of distant water tuna catches in 2008⁴. Korea has 359 distant water fishing vessels owned by 90 companies⁵ actively fishing all over the world's oceans both in the exclusive economic zones of other countries as well as in the high seas. As a significant fishing power, it has an added responsibility to ensure the fulfilment of international obligations and standards through domestic legislation.

The nation's fleet's involvement in IUU fishing and Korea's lack of enforcement action makes a mockery of its obligations under international fisheries instruments to which it is a party such as the United Nations Agreement on straddling and highly migratory fish stocks as well as the United Nations Food and Agriculture Organisation's (FAO) Compliance Agreement.⁶ Both legally-binding instruments provide for very clear obligations by which Korea has to abide. Korea is also a member of several Regional Fisheries Management Organisations (RFMOs)⁷ and has supported the adoption of the UN FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU) and the soon to be adopted UN FAO Guidelines for Flag State Performance⁸.

Korea is a party to leading UN human rights instruments such as the International Covenant on Social, Cultural and Economic Rights, which guarantees the right to "just and favourable conditions of work". Furthermore, Korea has signed a free trade agreement with the EU⁹ which reaffirms the commitment of the EU and Korea to "the rights and freedoms set out in the Universal Declaration of Human Rights", "to effectively implementing the ILO Conventions", "decent work for all as well as the protection and preservation of the environment and natural resources", "to promote transparency as regards all relevant interested parties, including the private sector and civil society organisations", "to strengthen the development and enforcement of labour and environmental laws and policies".

Overfishing, the use of destructive fishing methods, labour exploitation and human rights abuses inflicted on foreign fishing crews are shameful and seriously undermine the government's standing on the international scene. There are 34 vessels owned by 20 Korean companies identified as being involved in IUU internationally according to publicly available information. See Appendix 1 for full list of Illegal, unreported and unregulated (IUU) cases of Korean-flagged or Korean-owned vessels

Flag State responsibility – controlling the fishing fleet or covering the bad guys?

As a flag State, Korea must show the international community that it is willing to comply with its obligations under international law and the legally binding instruments and regional fisheries management organisations to which it is a party.

International pressure to urge Korea to stop IUU

Due to ongoing cases of IUU fishing and the lack of demonstrable action by Korea, the US Department of Commerce has included Korea in its bi-annual report to the US Congress, which lists countries that engaged in IUU fishing in 2011 and/or 2012. Korea recognized the need for a stronger mechanism for administrative

⁴ 4 March 2011, *Riding a wave of fishflation* p.11, Tong Yang Securities Inc,

⁵ KOFA yearbook 2012

⁶ 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

⁷ all five tuna RFMOs (ICCAT, IATTC, CCSBT, WCPFC, IOTC), the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the North West Atlantic Fisheries Organisation (NAFO), the South East Atlantic Fisheries Organisation (SEAFO), The South Pacific Regional Fisheries Management Organisation (SPRFMO), Western Central Atlantic Fishery Commission (WECAFC), Fisheries Committee for the Eastern Central Atlantic (CECAF)

⁸ <http://www.fao.org/news/story/en/item/170570/icode/>

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:127:0006:1343:EN:PDF>

sanctions against its vessels engaged in IUU fishing. The Government of Korea further indicated that it is currently undertaking amendment of the relevant law to strengthen sanctions against IUU fishing activities. Korean officials expect the amendment will be promulgated during the first half of 2013. In reviewing the text of Korea's proposed amendment, The US National Marine Fisheries Service is concerned that the potential new sanctions are insufficient to deter IUU fishing activities¹⁰. If Korea fails to take appropriate action to address illegal fishing activities described in the report, Korean fishing vessels may be denied entry into U.S. ports, and imports of certain fish or fish products into the United States may be prohibited.
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Concerns have also been raised over the entry on the EU market of IUU caught fish involving Korean vessels¹². EU legislation provides for sanctions on countries that fail to combat IUU fishing and to manage fishery resources in line with international law including the United Nations Convention on the Law of the Sea. Furthermore, New Zealand and Australia are preparing stricter rules for foreign-chartered vessels operating in their waters in response to Korea's human right abuses on foreign crews and illegal fishing incidents (ref).

Unless Korean legislation against IUU fishing is considerably strengthened and effectively enforced, Korea's complacency and unhealthy relationship with an industry that flouts international regulations as well as Korea's disregard for its responsibilities as a major flag State and fishing power will result in severe sanctions from some of the key markets of Korean seafood products.

CASE STUDIES

1. Blocking IUU blacklisting and being questioned as an IUU fishing nation in order to protect one single Korean company – Insung

Korea is one of 35 parties to the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the intergovernmental convention that aims to conserve and manage the fisheries of the Southern Ocean. Korea has one of the largest fishing fleets in the Southern Ocean. With 9 vessels mainly owned by three Korean companies - Dongwon industries, Insung (Hongjin, subsidiary), and Sunwoo targeting toothfish and krill¹³. Among the whole distant water fishery industry in Korea, Insung is ranked 3rd in terms of total exports value among Korea's distant fishing industry in 2012¹⁴.

Insung 7 owned by Korean fishing company Insung Corporation was caught fishing four times more than its allowed quota in the Ross Sea. This is a clear case of IUU fishing based on strong evidence and the EU proposed to blacklist the Insung 7 in 2011. Even though Korea admitted the IUU activities by the Insung vessel, the Korean delegation blocked the blacklisting. This clearly demonstrates that even in the face of very serious illegal fishing and evidence Korea is not willing to adequately sanction its industry and to allow them to be blacklisted. This does not only undermine international management and policing efforts of these high value fisheries but also damages the reputation of other Korean companies not engaged in IUU fishing.

2011	Insung 7 overfished 4 times its catch limit in a subarea of Ross Sea	Korea blocked consensus on the Insung 7 IUU listing	EU proposed to blacklist Insung 7
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¹⁰ http://www.nmfs.noaa.gov/ia/iuu/msra_page/2013_biennial_report_to_congress_jan_11__2013__final.pdf

¹¹ http://www.nmfs.noaa.gov/ia/slider_stories/2013/01/msra_2013_report.html

¹² <http://pna.atuna.com/ViewArticle.aspx?ID=12561>

¹³ www.ccamlr.org

¹⁴ KOFA Yearbook 2012

The MIFAFF punished the Insung 7 with 5000 \$ civil penalties and 3 months business suspension

2012 CCAMLR found that Insung 2, 7, and 22 CPUE are anomalously high.
Hongjin 701 failure to comply with buoy marking

CCAMLR started investigation on anomalous high CPUE of Insung 2 and 7 in the last 3 years.

2. Turning a blind eye to the crime of large-scale forgery of licences and official documents involving Korean vessels

West Africa is an important fishing ground for Korean distant water fishing companies as the regulations in other areas are getting stricter and hence fishing opportunities are decreasing and getting more costly the world over. IUU fishing is known to be rampant especially in the waters of West Africa where control and enforcement is often lacking. Fishing operations in such poorly or uncontrolled fishing grounds in developing countries demands high business ethic, transparency and due diligence by foreign companies exploiting these waters. Unfortunately it seems that instead of aiming to rise to global best standards, the Korean industry avoids even the few regulations that exist in the region. With the recent increase of awareness and resources to clamp down on IUU fishing, some African countries have stepped up combating IUU fishing in their waters with help from the EU and the USA amongst others. Many Korean vessels were caught fishing illegally in West Africa including in Sierra Leone and Liberia in the last few years. In total 15 companies including Dongwon Industries, Silla and Inter-Burgo Corporation and about 30 vessels have been found to having engaged in IUU fishing in the region from 2010 to 2012¹⁵.

Two Korean companies were caught engaging in IUU fishing most recently. A tuna purse seine vessel owned by Dongwon Industries, the F/V PREMIER was caught fishing with a forged fishing license in Liberia and forging official documents to clear IUU fishing suspicions, which caused an international scandal¹⁶. Another vessel, the F/V SOLEVANT also operated by Dongwon Industries is also under investigation for fishing illegally in Liberia. The forgery scandal in Liberia also includes 5 vessels from Inter-Burgo, another Korean operator. Dongwon has publically denied any wrongdoing and claims to be a victim of fraud¹⁷ without providing any documents to prove its innocence. The large-scale IUU fishing and forgery crime has alerted the EU¹⁸ and the UK¹⁹ issued a warning that IUU products may enter its market. Furthermore the move by the F/V PREMIER to the Indian Ocean has resulted in unified action by coastal States that have refused to license the vessel or allow any services in port²⁰.

West African countries have an average annual Gross National Income (GNI) per capita less than 1/20th of Korea's. Marine resources are an important source of food and income for these coastal developing countries, but illegal fishing activities by distant water fleets deprive them of both. When foreign fishing

¹⁵ EJJ Report page 35/KOFA IUU workshop 2013.3.13 IUU

¹⁶ http://www.stopillegalfishing.com/sifnews_article.php?ID=102

http://www.theodora.com/wfbcurent/liberia/liberia_economy.html

¹⁷ <http://www.naeil.com/News/economy/ViewNews.asp?nnum=704731&sid=E&tid=5>

¹⁸ <http://pna.atuna.com/ViewArticle.aspx?ID=12561>

¹⁹ http://www.stopillegalfishing.com/sifnews_article.php?ID=103

<http://www.seafish.org/media/771007/letter%20to%20tuna%20importers%20130227.pdf>

²⁰ <http://m.etoday.co.kr/view.php?idno=703848&mn=1>

vessels do pay for a fishing licence, it often costs a little as around 3-6% of the value of the catch. Illegal fishing in Africa accounts for 10% of the world's illegal fishing²¹ worth one trillion KRW in monetary terms,

Table 3 Gross National Income comparisons between Korean and African countries²²

	Korea	Guinea	Guinea-Bissau	Liberia	Sierra Leone	Ivory Coast	Ghana	Senegal
GNI per capita in 2011 (\$)	22,451	863	994	265	737	1387	1584	1708

The Korean industry catches 64,000 tons of fish per year from Western African waters, among which 40,000 tons are brought home²³. The fee paid to these countries for fishing was about 5.8Million USD in 2011²⁴. Korea's DWF industry claims that it is difficult to determine the exact sales figure, but boasts 1 trillion won in annual sales by Inter-Burgo only, which has the largest number of fishing vessels in West Africa²⁵.

The former Ministry for Food, Agriculture, Forestry and Fisheries (MIFAFF) offered marine Overseas Development Assistance (ODA) to African countries every year at KRW 400~500 million, and increased to KRW 1 billion in 2011 and KRW 1.6 billion in 2012²⁶, in response to the increasing efforts and interest of African coastal States to preserve their marine resources. Unless Korea also effectively ensures that fishing operations by its fleets are legal, the efficiency of this assistance in helping poverty alleviation or allowing African countries to gain economic development and independence is doubtful.²⁷

Korean industry repeatedly abuses human rights of foreign crew

Although anecdotal reports of human rights violations on board Korean fishing vessels are frequent, the vessels owned by one of the biggest fishing companies in Korea – Sajo Group – are particularly frequently implicated. The human rights abuses reported on board the vessels Oyang 70 and Oyang 75 were particularly disturbing in that the company went to great lengths to hide the case. The case of the Oyang 75 also involves IUU fishing. The testimony of the foreign crew who survived the sinking Oyang 70 in August 2010 and the crew who escaped from Oyang 75 in June 2011 horrified the New Zealand and Australian public. The reported abuse included repeated hitting with blunt instruments like a steel pipe, excessive working hours, sexual harassment and violation, insults, and delayed payment or no payment of wages, and slavery contracts, all demonstrating the ultimate lack of care from the operators at all levels²⁸.

The New Zealand government started to investigate foreign chartered vessels operating in its waters from August 2011 and in February 2012 announced the results showing that this kind of abuse happened almost only on Korean vessels²⁹.

²¹ <http://www.afdb.org/en/news-and-events/article/africa-loses-one-million-tonnes-of-fish-yearly-due-to-illegal-fishing-9883/>

²² UNDP African Human Development Report 2012, Korea Major Index KOSIS 2013

²³ KMI Global Fisheries Focus Vol 55

²⁴ KOFA yearbook 2012

²⁵ http://article.joinsmsn.com/news/article/article.asp?total_id=4561164

²⁶ http://www.mifaff.go.kr/list.jsp?newsid=155444451§ion_id=b_sec_1&pageNo=1&year=&month=&listcnt=5&board_kind=C&board_skin_id=C3&depth=1&division=B&group_id=3&menu_id=1125&reference=2&parent_code=3&popup_yn=N&tab_yn=N

²⁷ <Dead Aid> Dambisa Moyo . http://news.khan.co.kr/kh_news/khan_art_view.html?artid=201206082048335

²⁸ New Zealand Asia Institute of the University of Auckland 11 Sep 2011 <http://docs.business.auckland.ac.nz/Doc/11-01-Not-in-New-Zealand-waters-surely-NZAI-Working-Paper-Sept-2011.pdf>

²⁹ Report of the Ministerial Inquiry into the use and operation of Foreign Charter Vessels Feb 2012 of NZ government <http://www.fish.govt.nz/NR/rdonlyres/1CD50F2C-5F55-481D-A3CB-9A7EC25CBE54/0/2012foreignchartervesselsreport.pdf>

This international scandal prompted the Korean government to create an intergovernmental investigation committee under the order of Prime Minister in May. In September 2012, the committee confirmed that the suspicion was true: - human right abuses, non-payment of wages, forgery of documents and violation of crew³⁰. And the committee sent the 5 Korean crew and 5 employees of Sajo Oyang to the prosecutor. But, due to the decision of the Busan Regional Public Prosecutor, the Sajo staff was let off, after Sajo Oyang submitted a letter that the foreign crew didn't want to press charges against the company.

The international opinion including in New Zealand and Australia stigmatised Korea for tolerating such practices. NZ is preparing a stricter regulation on foreign-chartered vessels in its waters.

Korea is facing the danger of becoming an underdeveloped country in terms of human rights. The US State Department grades every country in terms of efforts to protect human rights in its annual TIP (Trafficking in Persons) in reports published since 2001. Korea has been ranked 1st grade of the list along with other developed countries since 2002, until Sajo's human rights violations became a hot in June 2012, and the State Department warned of the possibility to degrade Korea to 2nd place in February 2013³¹.

CONCLUSIONS AND RECOMMENDATIONS

According to international law and other instruments such as the FAO International Plan of Action to Prevent Deter and Eliminate IUU Fishing (IPOA-IUU), the flag State is the most important actor in fighting illegal fishing. The cases exposed above show that managing and controlling distant water fishing includes abiding by all international regulations, fulfilling responsibilities as a flag state, respecting scientific advice and adopting precautionary and ecosystem based conservation measures both nationally and internationally, and demonstrating determination to combat IUU fishing are essential requirements Korea must take seriously and meet.

Greenpeace calls on the Korean government to start an independent investigation of the IUU fishing and forgery cases and expose the truth to prevent such crimes from happening again and also to show to the international community that Korea is willing to fulfil its responsibilities as a flag State and will actively support international efforts to combat IUU fishing activities, including adequate punishment of the companies and individuals found guilty.

Unfortunately IUU fishing and human rights abuses are just the tip of the iceberg of issues to do with Korea when it comes to fisheries management globally. In order to improve the situation. The new government must therefore urgently reform Korea's regulations for the distant water fishing industry, which is plagued by illegalities and scandals and introduce a sustainable fisheries policy to conserve the marine environment and finally recover the pride of Korean people. Greenpeace therefore urges the Korean government to:

- Ensure that the new Ministry of Maritime Affairs and Fisheries, the Ministry of Environment and the Ministry of Foreign Affairs work together and consult civil society to support far reaching conservation measures in RFMOs as the basis for sustainable fisheries.
- Fulfil its responsibilities as a flag State and to improve the investigation procedures and penalties on IUU fishing cases by Korean-flagged and –owned vessels and companies

³⁰ <http://www.apil.or.kr/m/post/view/id/1233>

³¹ http://csr.action.or.kr/?mid=blog&page=1&document_srl=50018
<http://www.yonhapnews.co.kr/bulletin/2013/02/17/0200000000AKR20130217000400071.HTML>

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- To review the Oceans Development Act to ensure effective management and control of the distant water fishing industry and to introduce sustainable, precautionary and ecosystem based fisheries policy to conserve marine environment.
- Ensure greater transparency in all matters pertaining to fisheries management including wider consultation with civil society and relevant stakeholders.