

## 從國際法論歐盟對我國非法捕魚之貿易制裁 以及我國之因應

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### 摘要

為打擊非法捕魚，國際間透過一系列規範與文件，課予國家多重責任，包含一般性國家、船旗國、沿海國、港口國，乃至於市場國之角色。其中部分文件僅為軟法性質，欠缺法律上拘束力，部分文件則未必獲得普遍性接受與遵守。惟作為主要漁獲貿易體，歐盟透過 2008 年「歐盟非法捕魚規則 (Council Regulation (EC) No 1005/2008)」建立預防、制止和消除非法捕魚之機制，藉由其市場支配力，對於涉及非法捕魚之漁船或第三國進行貿易制裁，進而提高國際漁業規範與文件之適用與實踐。2015 年歐盟對於我國縱容非法捕魚，漁業管理制度與措施存在缺失，施以警告。按此一歐盟「決定 (decision)」所指稱之缺失與後續政策發展建議，我國應就相關漁業政策與改革進行重新全面性思考，並健全立法、加強執法機制、增加執法量能、強化「監測、管控和監督」系統、遵守區域性漁業組織規範與決議、進行多邊與雙邊國際合作、促進市場之透明性與漁獲之可追溯性，如此才能健全我國漁業，獲得歐盟撤回對我國警告之機會。

關鍵字：非法、未報告和不受規範捕魚；非法捕魚國際行動計畫；歐盟非法捕魚規則；船舶監控系統；監測、控管和監督系統

### Abstract

In order to combat illegal, unreported and unregulated fishing (IUU fishing), a series of international regulations and documents were developed. States are imposed different duties as general States, flag States, coastal States, port States as well as market States. Some of these regulations and documents are characteristic of soft law, without legally binding force, and some are not generally accepted and enforced. However, the European Union (EU) adopted IUU Regulation (Council Regulation (EC) No 1005/2008) to prevent, deter and eliminate IUU fishing. Fishing vessels and third

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States engaged in IUU fishing would face EU's trade sanction. Via the EU's market power, the EU IUU Regulation strengthens the application and enforcement of the international regulations and documents. In 2015, the EU decided to warn Taiwan concerned of its identification as a non-cooperating third country due to various deficiencies of Taiwan's fisheries management system and measures. Based on the EU's warning and the aftermath, Taiwan should establish a more comprehensive fisheries policy via reform, establish a robust legislation, intensify the enforcement mechanism, increase enforcement capacities, establish the monitoring, control and surveillance system, comply with the regulations and resolutions of the regional fisheries management organizations, develop multilateral and bilateral cooperation, and strengthening the market transparency as well as the products' traceability. By doing so, Taiwan would be able to have a sound fisheries policy and industry and be cleared from EU's IUU fishing warning.

Key words: Illegal, Unreported and Unregulated Fishing; International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; EU IUU Regulation, Vessel Monitoring System; Monitoring, Control and Surveillance System