The Hongjin 707: Case study and recommended next steps for CCAMLR

Submitted by ASOC
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Abstract

This paper provides an overview of the case of the Korean fishing vessel Hongjin 707 and recommendations for actions from CCAMLR. Since the Hongjin 707 has engaged in IUU fishing, it is appropriate for CCAMLR to include the vessel on the Contracting Party (CP)-IUU list and to request Korea to withdraw its notifications for the vessel for the 2016-2017 fishing season. It is critical for CCAMLR and for Korea that a known violator of CCAMLR CMs is prevented from fishing in the Convention Area. CCAMLR should also discuss their views on appropriate response by Members when their flagged vessels engage in IUU fishing, and specifically on what criteria should be fulfilled before any vessel is re-approved for fishing.

Background

In recent years, the Korean government has taken undertaken a number of actions to ensure better compliance with CCAMLR regulations. In 2011, the vessel Insung No. 7 was proposed for inclusion on the CP-IUU vessel list, but consensus could not be reached because of Korea's opposition. Soon after this, the Korean government strengthened the penalties for IUU fishing in its Distant Water Fisheries Development (DWFs) Act. The government has also set up a Distant Water Fisheries Monitoring Centre. In addition, there is an ongoing legal case between the Korean Ministry of Oceans and Fisheries (MOF) and the Hongjin Corporation over the recommendation to suspend the Hongjin 707 from fishing in the Convention Area for three years.

Summary of the Hongjin 707 case

As reported to CCAMLR in 2014 (CCAMLR, 2014), the Korean government refused to validate the Dissostichus Catch Documents (DCDs) of the Hongjin 707 for the period August 31 to October 23, 2013, after suspecting the vessel had fished in jurisdictional waters within the FAO statistical area 41. As a result, the vessel's owners were fined, their fishing authorizations suspended and the catch discarded at sea.

Additionally, the Korean MOF suspended the Hongjin Corporation from fishing in the CCAMLR Area for three years after determining that the DCDs contained misreporting. There was a discrepancy of 30,925 kg between the reported catch (221,445 kg, HGT weight) amount and the landing amount (252,370 kg). The Hongjin Corporation failed to provide a compelling explanation for the discrepancy.

The MOF imposed a penalty similar to the ones previously imposed on the Insung Corporation. In 2014, Insung was given a 10-year suspension from toothfish fishing and the Insung 7 was scrapped after the company's vessels were found to have engaged in IUU fishing. According to the 2016 Court statement for the Hongjin 707 case, the MOF cited the following in making its decision:

- Paragraphs 1 and 2, Article IX of the Convention on CAMLR
- Paragraph 6, Article IX of the Convention on CAMLR
- Paragraphs 1 to 3, Article XX of the Convention on CAMLR
- Paragraph 2 of Conservation Measure (CM) 10-02
- Paragraphs 1 and 23 of CM10-06
- Article XIII (1) of DWFD Act
Hongjin objected to the ruling on the basis that under the existing law applied at the time, the maximum sentence was sixty days’ suspension after three violations and therefore, the 3-year suspension should be withdrawn. Hongjin’s objection was upheld. The MOF has appealed this decision of the court, but in the meantime has been obliged to submit a notification to CCAMLR for the vessel to fish in the upcoming 2016-17 season.

Analysis and recommendations

The successful objection by Hongjin against the penalty was largely a result of the weakness of the unstrengthened DWFD Act. The case has highlighted loopholes in Korean domestic legislation and Korea’s compliance with the Convention on the Conservation of Antarctic Marine Living Resources. Korea has indicated that it will continue to review its laws to combat IUU fishing. In the meantime, CCAMLR should take action to prevent the Hongjin 707 from fishing in the CCAMLR Area.

Under CM 10-06, CCAMLR has the authority to add vessels to the CP-IUU list. CM 10-06 lists a procedure for doing this that includes the Secretariat compiling a draft list by July 1. This deadline has passed, but it is still possible to list the vessel, either at the request of a CCAMLR Member, or Members, before or during the meeting. In 2011, the Standing Committee on Implementation and Compliance (SCIC) added the Insung No. 7 to the Provisional CP-IUU list even though it had not been listed on the Draft CP-IUU list by the Secretariat before the meeting.

The Hongjin 707 clearly qualifies for inclusion under CM 10-06. Paragraph 5 of CM 10-06 states, “In order for a Contracting Party’s vessel to be included in the CP-IUU Vessel list, there must be evidence gathered in accordance with paragraphs 2 and 3 that the vessel has...(vi) failed to provide, when required under Conservation Measure 10-05, a valid catch document for Dissostichus spp.” Since CM 10-05 requires that catches of Dissostichus outside the Convention area must still have a valid catch document, the Hongjin 707 qualifies for the CP-IUU list due to its failure to provide an appropriate catch document for catches taken in FAO statistical area 41.

If CCAMLR Members do not propose the vessel for the CP-IUU list, they could request that Korea withdraw the Hongjin 707’s notification to fish in subareas 88.1 and 88.2 for the 2016-17 fishing season. These are exploratory fisheries, and so all vessels participating in the fishery must adhere to research and data collection plans approved by the Scientific Committee. Misreporting on catch and fishing location negatively impacts the accuracy of the data used in stock assessments. Until the Hongjin Corporation provides a credible explanation for the discrepancies in the reported and landed catches on the DCD, there is doubt that Hongjin 707 is capable of following the relevant conservation measures for the fishery.

CCAMLR has made significant progress over the past few years in combating IUU fishing. If a known IUU vessel is allowed to operate in the Convention Area this fishing season, it will set a negative precedent and damage the reputations of both CCAMLR and Korea. Furthermore, the example of the Hongjin 707 demonstrates that the work of Members and CCAMLR to deter IUU fishing is not yet complete. Despite a drop in estimated levels of IUU fishing by CPs and NCPs since the 1990s (Österblom, 2010; Nilsson et al., 2016), violations have continued to occur (Miller et al., 2004; Österblom, 2010; Miller and Sumaila, 2014). Therefore, there is a need for CCAMLR Members to strengthen their domestic legislative and administrative measures to eliminate IUU fishing. Although Korea has taken leadership on this issue, their legislation still clearly has some gaps.

Several CCAMLR Members have made significant progress in strengthening legislation against IUU fishing and carried out high-profile enforcement actions. Spain, Chile, and the EU have put in place legislation to combat IUU fishing, (Österblom, 2010 and references therein) and implemented it with notable success. It could therefore be useful for CCAMLR Members to exchange views and share best practice in the development of related to domestic legislation and the implementation of that and CCAMLR CMs during this meeting. One specific issue of critical importance is how to regulate vessels
that have violated CCAMLR CMs but want to fish in the Convention Area again. It would be useful to learn what domestic penalties and re-instatement procedures have proven effective in deterring IUU fishing. Such a discussion should aim to develop broad steps and approaches without being overly prescriptive, since CCAMLR Members have diverse legal and legislative systems. Ideally CCAMLR Members would harmonize their domestic approaches to the greatest extent possible. This could result in more consistency among Members’ IUU fishing-related legislation as well as ensure that vessels from different Members are treated equally when they violate CCAMLR CMs. In addition, CCAMLR should continue its efforts to revise and strengthen compliance-related CMs.

Conclusions

The Korean government has proposed revisions that would strengthen the DWFD Act, which will require vessels suspected of IUU fishing to cease operating and return to a designated port without transshipping any catch. The legislation also requires that all illegal catches must be confiscated by the government. In addition, the government is seeking to put in place specific IUU fishing legislation. This confirms Korea is committed to being a leader in combatting IUU fishing. ASOC looks forward to seeing the revised and new legislation in place.

CCAMLR has been successful in reducing IUU fishing in the Convention Area in recent years. Therefore, allowing a known violator of CMs like the Hongjin 707 to operate in the Convention Area would represent a setback. CCAMLR should either list Hongjin 707 on the CP-IUU or request Korea to withdraw its recommendation for this year’s fishing season. Only when the Hongjin Corporation can give evidence of the steps taken to prevent future violations of CCAMLR CMs should its vessels be authorized to engage in fishing activities.

References


Miller DD, Sumaila UR (2014) Flag use behavior and IUU activity within the international fishing fleet: Refining definitions and identifying areas of concern. Marine Policy 44:204-211.