
The EU IUU Regulation

Analysis: Implementation of EU seafood import controls

EXECUTIVE SUMMARY – MARCH 2017



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EXECUTIVE SUMMARY

Implementation of import controls under the EU Regulation to end illegal, unreported and unregulated (IUU) fishing: a review of progress to date.

Background

A core aim of the European Union's (EU) Regulation to combat illegal, unreported and unregulated (IUU) fishing is to prevent, deter and eliminate trade in fisheries products deriving from IUU fishing into the EU. The Regulation establishes a catch certificate (CC) scheme to assist member state (MS) authorities in detecting and blocking illegally sourced products at their borders, which is complemented by a procedure to identify third (non-EU) countries as non-cooperating in the fight against IUU fishing (the "carding" process).



analysed to provide an overview of progress towards the full and effective implementation by MS of the IUU Regulation CC scheme. The data reported to the European Commission were corroborated through discussions with competent authorities for implementation of the IUU Regulation in key seafood-importing MS, and through a review of relevant literature. This is the first published analysis of data reported by MS for the most recent two-year reporting period, 2014/15.

The analysis focused on six key requirements under the Regulation with respect to imports:

1. Routine documentary checks of import CCs
2. Application of a risk-based approach to assessing CCs
3. Verification of CCs to ascertain compliance of imports
4. Physical inspections of consignments
5. Rejection of consignments in cases of non-compliance
6. Biennial reporting to the Commission on activities under the Regulation.

With respect to the six key requirements under the Regulation, the analysis drew a series of conclusions, presented in overview over the following pages.

Key findings

The analysis highlights clear disparities in the implementation of import controls across the EU, creating an uneven playing field for operators and leaving the system open to abuse. Differences were observed, in particular, in the frequency and rigour of checks and verifications of CCs, and in the quality of risk assessment procedures for identifying consignments for verification.

There is evidence that disparities in import controls may be resulting in the diversion of high-risk trade flows to MS that implement less stringent procedures for the assessment of import CCs.

This undermines the significant progress made by some MS to fully implement the IUU Regulation CC scheme and provides insufficient assurance that products stemming from IUU fishing are not entering the EU market.

The IUU Regulation entered into force on 1 January 2010, and is thus in its eighth year of implementation. As in other areas of EU policy, every two years the 28 EU MS submit a report to the European Commission on implementation of key obligations under the Regulation. The reports include, amongst other information, data on imports under the Regulation, details of import control procedures and recommendations to improve current systems and frameworks.

The biennial reports submitted by MS for the period 2010–2015 were obtained via access to information requests to the European Commission. The reports received were

This is the first published analysis of data reported by member states for the period 2014/15.

2014/15

Differences exist between member states in terms of the proportion of catch certificates that are subject to checks, as well as the procedures involved.



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REQUIREMENT 1: Routine documentary checks of import CCs

- Requirements are not implemented uniformly across the EU.
- Differences exist between MS in terms of the proportion of CCs that are subject to checks, as well as the procedures involved.
- There is insufficient guidance at the EU level to ensure harmonisation of procedures among MS, for example, in terms of the specific fields of the CC that should be checked and the external sources of information that should be consulted.



REQUIREMENT 2: Application of a risk- based approach to assessing CCs

- Effective risk analysis, as required under the IUU Regulation, is essential to identify consignments for further scrutiny given the scale of fisheries imports into the EU, the majority of which arrive in shipping containers. Container imports present particular challenges in terms of inspections, verifications and allocation of enforcement effort.
- Standards of risk assessment vary considerably between MS and, in some cases, appear inadequate to deal with the complexities and volumes of seafood trade flows to the EU. In practice, the flexibility afforded to MS to determine methodologies for the risk-based verification of CCs has undermined the Commission's stated aim of harmonising MS approaches to verifications.
- Four MS specifically reported that they apply risk criteria defined at the EU-level to focus their import controls. Other MS appear to define their risk criteria at the national level, with procedures varying widely, for example, in terms of the number/type of criteria applied and how CCs are selected for verification. Ten MS do not apply a risk-based approach to the assessment of CCs; this seems largely due to the low numbers of CCs received. Key importing MS have not reported information on the specific risk criteria applied to direct their verifications.



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Figure 1 | Number of verification requests sent to third countries (2014/15)*

Source: biennial reports submitted by MS for the period 2014/15.

*Bars in grey indicate data for 2012/13 – 2014/15 data were not available at the time of writing.

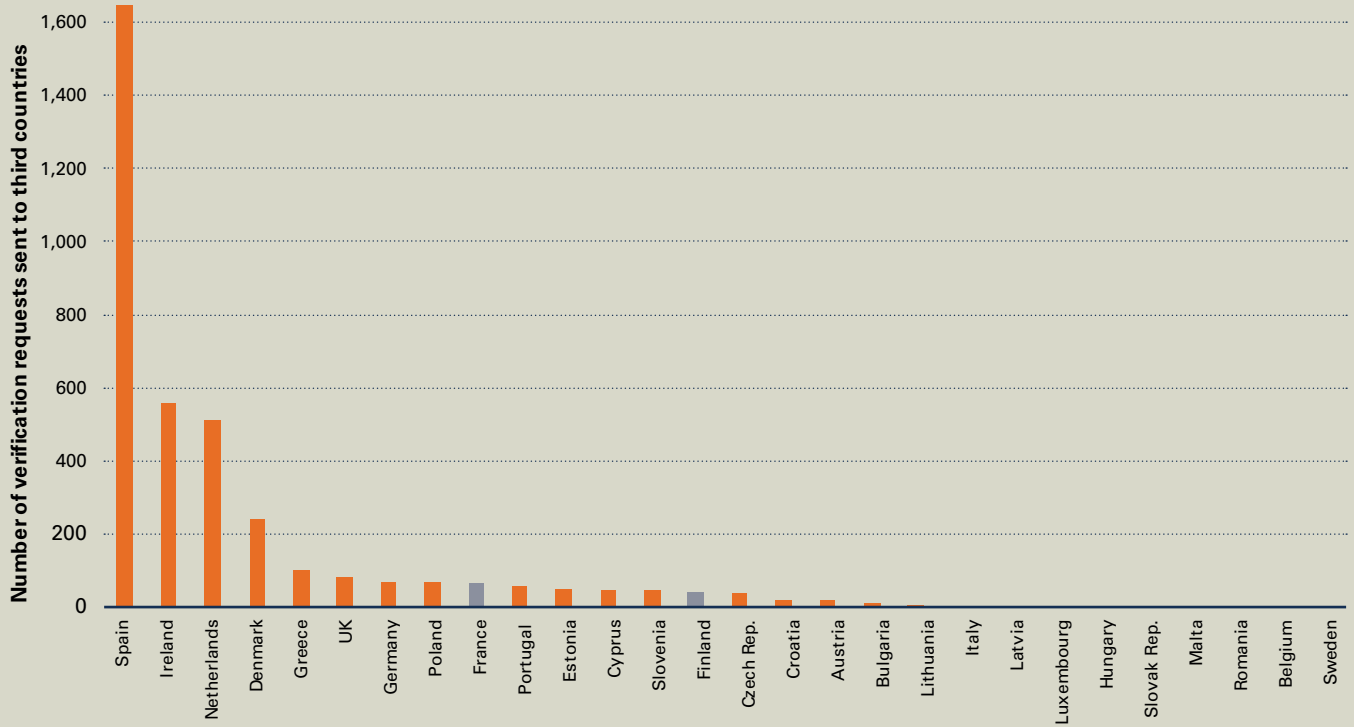
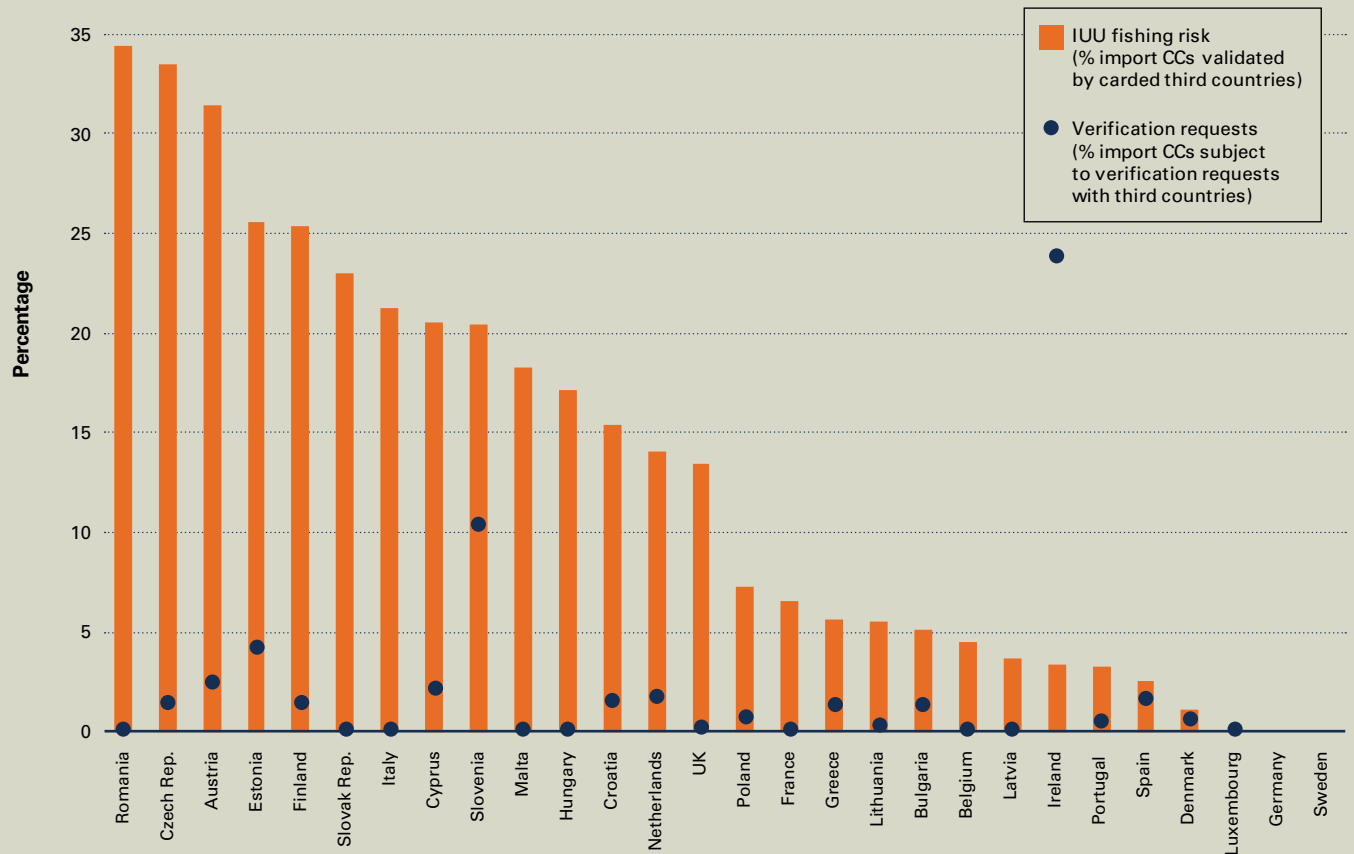


Figure 2 | Comparison of % of import CCs: (i) validated by carded third countries under the IUU Regulation (IUU fishing risk); and (ii) subject to verification requests to third countries (2014/15)*

Source: biennial reports submitted by MS for the period 2014/15, or for 2012/13 where 2014/15 data were not available at the time of writing.

*Calculations of IUU fishing risk were not possible for Germany and Sweden due to a lack of data on flag States of origin in their respective biennial reports.



REQUIREMENT 3: Verification of CCs to ascertain compliance of imports

- Four MS accounted for over 75% of the total 3,000 (approximate) verification requests sent to third countries to ascertain compliance of fisheries imports during the period 2014/15 (see Figure 1). Yet three of these MS received some of the lowest-risk trade flows during this period in terms of the proportion of import CCs from carded flag States¹ (see Figure 2).
- Several MS with relatively high-risk trade flows have submitted very few or no requests for verification to third countries since the Regulation came into force (see Figures 1 and 2). There are clear examples of MS failing to conduct verifications in circumstances warranting further scrutiny.
- A consequence of these disparities is the possible diversion of high-risk trade flows to MS with less stringent standards for verifications.



REQUIREMENT 4: Physical inspections of consignments

- Imports via container vessel are not subject to the same measures and benchmarks under the Regulation that apply to direct landings in EU ports.
- There is currently little to no harmonisation of controls for container imports, and limited efforts at the EU level to ensure a minimum standard of implementation across MS.
- Six MS reported that they do not carry out physical inspections of container vessels (or other freight imports) for IUU import control purposes.
- Of the 16 MS reporting inspections of containers/freight consignments, disparity exists in terms of how containers are selected for inspection, whether controls are based on risk management and the procedures for inspections.
- Overall, the low level of detail and consistency of information reported by MS prevents a robust assessment of implementation across the EU.



REQUIREMENT 5: Rejection of consignments in cases of non-compliance

- MS apply different benchmarks and standards to determine the circumstances under which consignments will be refused entry to the EU, leading to discrimination between operators importing products of the same origin.
- A key barrier to rejecting consignments appears to lie in establishing grounds for rejection, along with the reluctance of some MS to delay trade for the purposes of CC verifications.
- Since 2010, around 350 consignments have been rejected under the Regulation (see Figure 3), including rejections for both procedural/documentary non-conformities and linkages to IUU fishing. The number of refusals seems low compared to both the pre-Regulation estimate of IUU imports (500,000 tonnes imported to the EU annually) and the IUU fishing risk associated with imports to the EU (see Figure 4).
- Major importing MS with high trade volumes and relatively high-risk trade flows have reported very few rejections since the Regulation came into force (see Figures 3 and 4).



REQUIREMENT 6: Biennial reporting to the Commission on activities under the Regulation

- For some MS, insufficient information on procedures for implementing the IUU Regulation CC scheme precludes a robust assessment of the status of implementation, and hinders meaningful comparisons across MS.
- In several areas, questions in the reporting template were found to be ambiguous and insufficiently specific, leading to contrasting interpretations by MS. This is compounded by a lack of clarity on the content of MS obligations under the Regulation, particularly with regard to procedures for the checking and risk-based verification of CCs.
- A key gap in the reporting template is the failure to require MS to provide a breakdown of CC data by flag State of origin. This information is essential for the calculation of IUU fishing risk associated with imports and for detection of shifts in trade flows.
- To ensure an appropriate level of detail in MS reports, and that implementation of the CC scheme can be properly assessed, a number of improvements to the reporting template are required.



85-92%
of imported seafood enters the
European Union via container.



Figure 3 | Number of import consignments refused by MS in accordance with the IUU Regulation (2010–2015)*

Source: biennial reports submitted by MS for the period 2010/15, where available (see Annex 1).
 *France did not report information on the number of refused consignments in its biennial report for 2012/13.

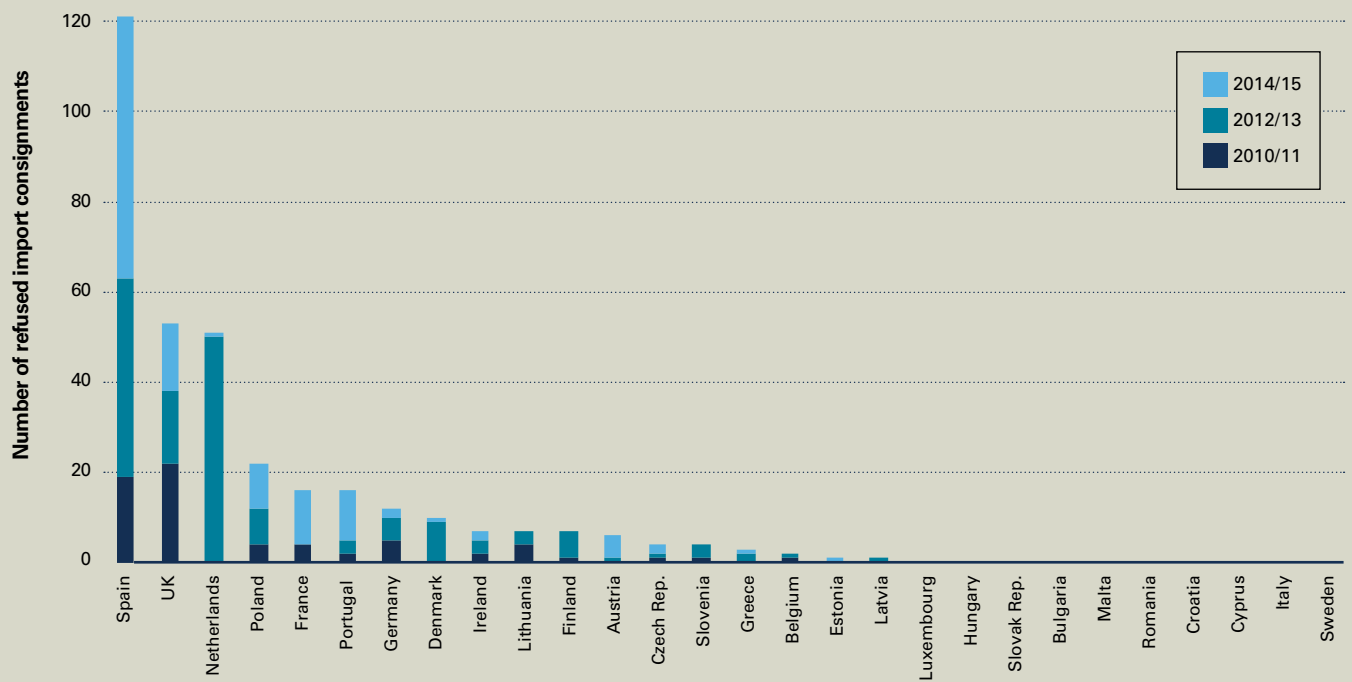
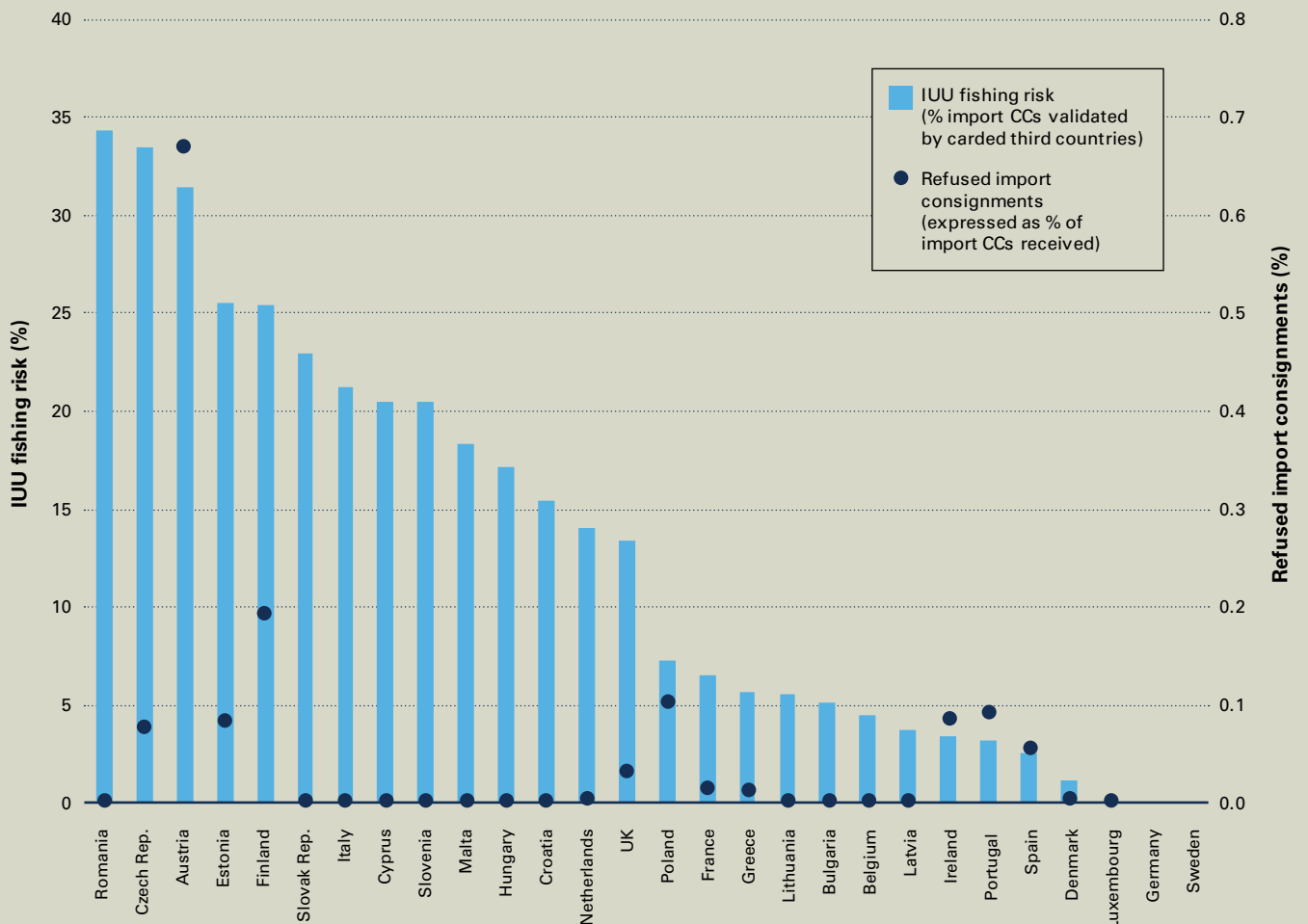
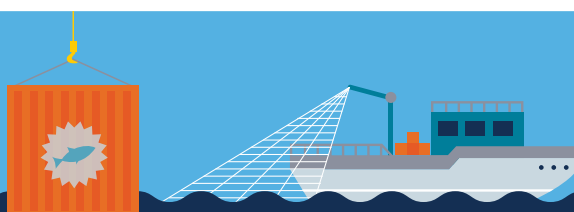


Figure 4 | Comparison of: (i) % of import CCs validated by carded third countries under the IUU Regulation (IUU fishing risk); and (ii) refused import consignments expressed as % of import CCs received (2014/15)*

Source: biennial reports submitted by MS for the period 2014/15, or for 2012/13 where 2014/15 data were not available at the time of writing.
 *Calculations of IUU fishing risk were not possible for Germany and Sweden due to a lack of data on flag States of origin in their respective biennial reports.



Checklist for achieving harmonised, robust import controls across all EU member states



Comprehensive checks of information in the CC; 100% of CCs are checked.



A few fields of the CC are checked; only for a % of CCs.

DOCUMENTARY CHECKS

Risk criteria are comprehensive, well-founded and regularly updated; applied systematically to incoming CCs.



Inadequate risk criteria; not applied systematically to incoming CCs.

RISK ANALYSIS

Third countries are contacted systematically to assess compliance of imports, based on the results of initial documentary (CC) checks and/or risk analysis.



Third countries are rarely contacted for further information or assistance in establishing legal origin as part of the verification process.

VERIFICATIONS

A proportion of freight consignments are physically inspected by trained officials, in cases of doubt or suspicion, or based on risk analysis.*



Freight consignments are not physically inspected for the purposes of import controls under the IUU Regulation.

INSPECTIONS

Consignments are systematically rejected in accordance with the requirements of the Regulation.



Consignments are not rejected in the circumstances required by the Regulation.

REJECTIONS

*In the case of direct landings (and transshipments) by third country vessels in EU ports, the IUU Regulation requires MS to physically inspect at least 5% of such operations based on risk assessment

Recommendations

The analysis highlights the need for the European Commission and MS to step up efforts to ensure the improved and harmonised implementation of import controls under the IUU Regulation across the EU.

To address the issues identified, ensuring an effective and united EU barrier to the import of IUU seafood and a level playing field for operators, we recommend that:

1. The **European Commission** uses all means at its disposal to harmonise implementation of procedures for CC checks, risk analysis and verifications to a minimum standard across MS, including:

- Stepping up efforts to establish an electronic EU-wide database for processing, cross-checking and storing CC information, and incorporating a robust risk analysis tool, with a view to a pilot project being in place by latest mid-2017 and a fully operational system being in place by end-2017.
- Facilitating agreement on, and ensuring application of, standardised risk analysis criteria and procedures for the verification of high-risk CCs and inspection of consignments, taking into account best practices currently implemented in the EU.

- Issuing guidance which, as a minimum:
 - o Specifies the elements of the CC that should be checked, in every case, by MS.
 - o Sets out agreed methods and criteria for risk analysis at EU-level.
 - o Establishes a minimum percentage of CCs to be subjected to verification.
 - o Specifies the type of evidence of legal origin that should be requested from third countries as part of the verification process.
 - o Establishes clear benchmarks according to which consignments should be verified and refused entry to the EU market.
- Undertaking audit and evaluation missions to MS to determine compliance with obligations to control imports and taking action against those MS failing to implement effective risk-based verification of CCs and rejection of consignments in accordance with the Regulation's provisions.
- Improving the biennial reporting format to ensure detailed and standardised responses by MS, which are of sufficient quality to allow for the comprehensive assessment of IUU Regulation implementation, particularly procedures for CC checks, verifications and risk analysis.

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2. **Member states** provide the necessary means and demonstrate the political will to deliver full implementation of the Regulation by:

- Allocating sufficient capacity and resources to ensure effective implementation of import controls under the Regulation.
- Supporting the establishment of an electronic EU-wide database of CCs, and committing to the full and systematic use of the database once established.
- Supporting the establishment of a standardised EU-wide approach to risk analysis, and ensuring this is effectively applied in the detection of high-risk CCs/consignments.
- Applying standardised, thorough verification and inspection procedures of high-risk CCs and consignments, as agreed with, and defined by, the Commission.
- Ensuring consignments containing suspicious or illegally caught products are refused entry to the EU market.
- Exploring the creation of specialist intelligence and investigation teams at the national level for the strategic analysis of trade flows and analysis of possible cases of IUU fishing, in support of implementation of the CC scheme.



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This analysis has demonstrated a clear need for improved and harmonised implementation of IUU Regulation import controls across member states.

ENDNOTE: ¹ It may be assumed that flag States with identified deficiencies in monitoring, control and surveillance (MCS) systems – as indicated by the granting of a yellow (or, subsequently, red) card by the European Commission under the IUU Regulation carding process – will be less able to reliably certify the legal origin of seafood caught by their vessels.

Further information

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing. For more information on improvements to the EU catch certificate scheme, go to: www.iuuwatch.eu/catch-certificate-scheme

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